

A
COLLECTION

Of the most

INTERESTING

TRACTS,

Lately published in *England* and *America*,

On the SUBJECTS of

TAXING the *American* Colonies,

A N D

REGULATING their TRADE.

In TWO VOLUMES.

LONDON:

Printed for J. ALMON, opposite Burlington-House,
in Piccadilly.

M.DCC.LXVI.

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TWO VOLUMES

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with a List of those who voted against it
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A
D E F E N C E
OF THE
NEW-ENGLAND
CHARTERS.

By JER. DUMMER.

*Pulchrum est Patriæ benefacere, etiam benedicere
baud absurdum est.*

SALLUST.

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To the Right Honorable the

Lord **CARTERET**,

One of his MAJESTY'S Principal Secretaries
of State.

My LORD,

HAVING lately had the honor of presenting the humble Address of the Province of the *Massachusetts-Bay* to his Majesty, for the continuance of their charter privileges, which they apprehend in some danger: it seem'd agreeable at the same time, to explain the right which the charter governments have to those privileges. Nor could an argument of this nature be so properly address'd to any other person as your Lordship, who, in your high station, have all his Majesty's colonies and plantations within your province, and under your immediate care.

My LORD, the Colonies I plead for, ask only justice; yet if their circumstances should require the royal grace, they humbly hope they have some claim to it from their firm and exemplary loyalty. For it may be said to their honor, that it is not known there is a single person in all the charter governments, whatever there may be in
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DEDICATION.

the rest, who is not zealously devoted to his present Majesty, and to the succession in his illustrious house.

It would be, my LORD, a rash and ill-judg'd attempt in me, to enter here into your Lordship's character, as the manner of Dedicators is; I shall not therefore presume to mention those great abilities which have distinguished your Lordship in foreign courts as well as your own; but only beg leave to express my thanks for that amiable goodness, so conspicuous in your Lordship, which softens the brow of the minister, and makes our access easy, when public business calls us to attend your Lordship.

May you long continue an ornament and support to his Majesty's councils.

I am,

With profound Esteem and Respect,

My LORD,

Your LORDSHIP'S

most obedient and

devoted Servant,

JER. DUMMER.

A

D E F E N C E

O F T H E

New-England CHARTERS.

THE general name of New-England, includes in its common acceptation the province of the Massachusetts-Bay, the colony of Connecticut, the government of Rhode Island, with Providence plantations, and the province of New-Hampshire. The three former are charter governments: the last, *viz.* New-Hampshire, never had any peculiar privileges, but is under the immediate and absolute direction of the crown. The Massachusetts, as it is the first of all the colonies in extent of territory and number of inhabitants, was the first incorporated, having obtain'd their charter from king Charles the First, in the fourth

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year

year of his reign. The colony of Connecticut received theirs from king Charles the Second in 1662, and the fourteenth year of his reign. The government of Rhode-Island had theirs in the year following. These charters agreed in all the main points, confirming to the patentees their title to the soil, and giving them ample privileges for the well ordering and governing the respective plantations: They had power to make a common seal; to plead and be impleaded; to call general assemblies; to make laws, so as they were not repugnant to the laws of England; to assess the freemen; to constitute all civil officers; to array the inhabitants in warlike posture, and use the martial law, when occasion required. And it was provided further, that in case any doubts should arise, the charters should have the most favorable construction for the benefit of the several corporations.

Invited and encouraged by these advantages, a considerable number of persons dissenting from the discipline of the established church, though agreeing with it in doctrine, removed into those remote regions, upon no other

other view than to enjoy the liberty of their consciences without hazard to themselves; or offence to others. Thus the colonies went on increasing and flourishing, in spite of all difficulties, till the year 1684, when the city of London lost its charter, and most of the other corporations in England, influenced by fear or flattery, complimented king Charles with a surrender of theirs. In this general ruin of charters at home, it could not be expected that those in America should escape. It was then that a quo warranto was issued against the governor and company of the Massachusetts-Bay, and soon after a judgment was given against them in Westminster Hall. At the same time Sir Edmund Andros, then the King's governor of New-England, did by order from court repair to Hartford, the capital of Connecticut, with arm'd attendants, and forcibly seized their charter for the King. Rhode Island, finding there was no remedy to be had, made a virtue of necessity, and peaceably resigned theirs. But as soon as the news arrived of the happy revolution in England, these two last mentioned govern-

ments re-assum'd their charters, and put themselves under the old form of administration, in which they have continued ever since. The government of the Massachusetts, cautious of offending their superiors at home, and considering there was a judgment against them in the court of Chancery, though most unfairly and illegally obtained, did not think it advisable to make this step; but sent agents to Court to supplicate, in a humble manner, the restoration of their charter. To what mismanagement, or other cause it was owing, that they did not obtain it, and that this loyal corporation was the only one either in Old or New-England, that did not recover its lost liberty under our late glorious King William, 'tis now too late, and therefore to no purpose, to enquire. A new charter was ordered, which the province now has, and is not much more than the shadow of the old one. For by these new letters patent, the appointment of a governor, lieutenant-governor, secretary, and all the officers of the admiralty, is vested in the crown. The powers of the militia is wholly in the hands of his Majesty's governor,

vernor, as captain-general. All judges, justices, and sheriffs, to whom the execution of the laws is entrusted, are nominated by the governor with the advice of his Majesty's council. The governor has a negative upon the choice of counsellors, which is both peremptory and unlimited: He is neither obliged to render a reason, nor restrained to any number. All laws enacted by the general assembly are sent home for the royal approbation or disallowance. There is, besides, one very comprehensive article inserted in this charter, that no laws, ordinances, elections, or acts of government whatsoever, shall be of any validity, without the consent of the King's governor signified in writing.

By these reservations, the prerogative of the crown, and the dependance of the province thereon are in the most effectual manner secured, if there had been any danger before, as I hope in the sequel of this discourse, to demonstrate that there was not. And yet it happens unaccountably that this charter of King William, so limited and restrained, is as obnoxious as
either

either of the other which have their full and entire force. Accordingly when about six years since a bill was brought into the house of Commons, and twice read, for regulating the charter and proprietary governments, this was one among the rest, and the first named in the bill. And tho' the honourable house thought fit, upon hearing the petitions presented to them upon that occasion, to drop their proceedings, there is reason to believe they may at another time resume them. It is in this view, that I have put together my thoughts on the subject, which for method's sake I have disposed under the following heads.

1st, I shall endeavour to show, that the charter governments have a good and undoubted right to their respective charters.

2dly, That they have not forfeited them by any misgovernment or male-administration.

3dly, That if they had, it would not be the interest of the crown to accept the forfeitures. And,

4thly,

4thly, I shall make some observations upon the extraordinary method of proceeding against the charters by a bill in parliament.

1st Proposition, That the Charter Governments have a good and undoubted Right to their respective Charters.

AS to the first point there can be no difficulty. The charters were granted by the crown, and the King is acknowledged to be the head and fountain of all corporations and franchises. For tho' my Lord Coke takes notice, That a body politick may be established by prescription, yet such prescription is only valid upon a presumption that there was an ancient grant of the crown, which by the injury of time was afterwards lost. I need not insist upon what no body controverts; but it is material to observe, that the American charters are of a higher nature, and stand on a better foot,

foot, than the corporations in England. For these latter were granted upon improvements already made, and therefore were acts of mere grace and favor in the crown; whereas the former were given as premiums for services to be performed, and therefore are to be considered as grants upon a valuable consideration; which adds weight and strength to the title.

To increase the nations commerce and enlarge her dominions, must be allowed a work of no little merit, if we consider the hardships to which the adventurers were exposed; or the expence in making their settlements; or lastly, the great advantages thence accruing to the crown and nation. It would be an endless task to recount all the disappointments, and disasters that befel the first planters in these enterprizes. I shall therefore only say in general, that after many dangers in their voyages over the Atlantic, which was not such an easy navigation a hundred years ago as it is now, they arrived at an inhospitable shore and a waste wilderness, where there were few of the necessaries, and not
one

one of the accommodations of life; where the climate was so extreme, the summer heats so scorching, and the winters so long and so cold, that the country seemed hardly habitable; to sum up their misfortunes, they found themselves inevitably engaged in a war with the natives. So that by fatigue and famine, by the extremity of the seasons, and by a war with the savages, the first planters soon found their graves, leaving the young settlements to be perfected by their survivors.

To omit all this, I shall only be particular in the expence, which was above 200,000*l.* in settling the single province of the Massachusetts-Bay. The account stands thus: The freight of the passengers cost 95,000*l.* The transportation of their first stock of cattle came to 12,000*l.* The provisions laid in for subsistence, till by tillage more could be raised, cost 45,000*l.* The materials for building their first little cottages came to 18,000*l.* Their arms and ammunition cost 22,000*l.* These several articles amount to 192,000*l.* not taking into the account the very great sums which

were expended in things of private use, that people could not be without, who were going to possess an uninhabited land. I must add, that 192 ships were employed in making this great plantation, and twelve years were spent before it was brought to any tolerable degree of perfection.

As great, however, as this expence was, I believe it will appear that the settlement of New-England was not more chargeable to the adventurers, than it has been in its consequence profitable to Great-Britain. There is no sort of British manufacture, but what the subjects there demand in a greater or less proportion, as they have ability to pay for it; every thing for the use, convenience, ornament, and (I say it with regret) the luxury and pride of life. Some of the oldest and most experienced traders to those parts have by computation made these exports arise to the value of 300,000*l.* per annum. The imports from thence are equally beneficial to the kingdom. They brought home bullion as long as they had any left; and now they are so exhausted they can no longer send it directly,

directly, they continue to remit it by the way of Spain, Portugal and the Streights: It is there they sell their fish, and the produce of it comes hither in gold and silver, or bills of exchange, which is the same thing.

Other and better returns than money itself they make in masts, the fairest and largest in the whole world, besides pitch, tar, turpentine, rosin, plank, knees for ships, and other species of timber for various uses. These, especially pitch and tar, were formerly purchased of the Swede with crown pieces at intolerable prices; but since the encouragement given for their importation from New-England, they have fallen to half the value. It is further to be considered, that what we take of these commodities from our own plantations, is brought home in our own ships, and paid for with our manufactures.

New-England also imports logwood for the dying our woollen goods in quantities sufficient for our own use, and a surplus with which we furnish Holland, Hamburgh, and other markets in Europe. It

is wholly owing to the industry of the people of New-England, that this useful commodity is reduced from 30 and 40l. per ton, which we used to pay for it to the Spaniard, to 12l. per ton, which is the present price, and out of this 12l. there is 4l. 5s. paid to the crown for custom.

Other articles might be mentioned, as whale-oil and fins, which are yearly imported from New-England in no contemptible quantities. They are useful in several manufactures; and if not had from thence must have been purchased of the Dutch with ready money at excessive prices.

'Tis true, New-England makes no sugar, but it assists the islands that do; without which assistance they could not make it, at least not cheap enough, and in sufficient quantities to answer the markets in Europe. For if the sugar islands were obliged to sow wheat, and plant as much Indian corn as they wanted, they must needs plant the fewer canes, and by consequence make the less sugar. From thence they are also supplied with horses for their mills, timber
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for their sugar works, staves for their casks, and what is more considerable, with barrel pork, mackrel, and refuse cod-fish for their negroes, without which their labour would yield nothing to their owners. For were they to feed their slaves with beef and other provisions from Britain and Ireland, the expence of a plantation would devour the whole produce of it. There are now such quantities of sugar made in the French and Dutch plantations, and so much imported from Brazil by the Portuguese, that our sugar islands need all advantages to make that commodity cheap and in plenty, that we may be able to out-do, or at least equal our neighbours in the foreign markets.

It may be added, that New-England is a good nursery of seamen for the navy. I believe I may affirm, that there was hardly a ship, during the last war, in the royal navy, without some of *their* sailors on board, which so distressed the New-England merchants, that they were obliged to man their ships with Indians and Negroes.

What

What I have said amounts to this: THAT New-England received her charters on this exprefs condition, of settling colonies for the benefit of the crown: THAT she was at a vast expence, and through incredible difficulties accomplished the work even beyond what was ever hoped or expected.

And then the conclusion, that I would draw from these premises is this, THAT to strip the country of their charters after the service has been so successfully performed, is abhorrent from all reason, equity and justice.

But it is urg'd, *That the crown does not take back the soil, though it does the charters;* which indeed is saying very little or nothing. The crown, strictly speaking, neither did nor could grant the soil, having no right in it-self. Queen Elizabeth gave out the first patent to Sir Walter Rawleigh in 1584; and if she had any right, what was it and whence derived? It was not a *right of inheritance*, because those countries did not descend to her from her ancestors. Not of *conquest*, because she neither conquered nor attempted to conquer them. Besides, it would
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be pretty hard to conceive how a conquest, where there was no preceding injury or provocation, could create a right. Nor did it arise by *purchase*, there being no money or other valuable consideration paid. Nor could the claim be by the *prior discovery* or *pre-occupancy*, as the Civilians speak, because that gives a right only to *derelict lands*, which these were not, being full of inhabitants, who undoubtedly had as good a title to their own country, as the Europeans have to theirs. And sure nobody will say in plain terms, that we have any claim upon the foot that we were *Christians*, and they *Heathens*; which yet I know some persons of no obscure fame have tacitly suggested. Rome itself, as imperious as she is, never carried her pretences to this height: for though some of her doctors have taught, absurdly enough, that *dominion* is founded in grace, none of them ever said that *property* was. There remains then no other right than what is derived from the native lords of the soil, and that is what the honest New-England planters rely on, having purchased it with their money. The
Indian

Indian title therefore, as it is decryed and undervalued here, seems the only fair and just one; and neither Queen Elizabeth by *her* patents, or King James by *his* afterwards, could give any more than a bare *right of pre-emption*.

And yet admitting that the crown granted the soil, to how little must the value of such grants amount, all circumstances considered? The patentees were not only obliged to travel a thousand leagues beyond sea, but to purchase their grants over again of the natives, before they could be put into possession. The land itself was of a rough savage nature, incumbered with unprofitable woods, and of no use, till by vast labour and expence subdued and cultivated. For to speak the truth, those parts were but *bare creation* to the first planters, and their labour *like the beginning the world*.

So that which way soever we take it, I think it's plain, if the crown resumes the charters, it will take away the whole it gave; and deprive the patentees of the only recompence they were to have for all
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their toils and fatigues, which they thought to have conveyed safe to their posterity. Could they have imagined this, could they have foreseen that their privileges were such transitory things, as to last no longer than their work should be done, and their settlements compleated, they had never engaged in so hazardous and difficult an enterprize. They would never have parted from their native land, being neither criminals nor necessitous; and those countries which have since added so much to the wealth and greatness of the crown, might have been a barren wilderness to this day; or what is worse, and more probable, might have been filled with French colonies, whereby France would have reigned sole mistress of North America.

I believe it will be generally allowed, that my argument is thus far right, if I can make good my second proposition.

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2d Proposition. *That these Governments have by no Misbehavior forfeited their Charters.*

THAT these governments have by no misbehaviour forfeited back their charters to the crown.

Some of the ablest common lawyers that England could ever boast of, have maintained that a corporation, being an *ens rationis*, is in its nature indissoluble, and that therefore no abuse of its franchises can effect it in point of forfeiture, or determine its being. If this argument should be thought too subtle and metaphysical, I hope however it will be allowed an extreme on the other side, that a corporation should be threatened for *every* offence to be seized into the King's hands. The subjects abroad claim the privilege of Magna Charta, which says that no man shall be fined above the nature of his offence, and whatever his miscarriage be, a *salvo contemento suo* is to be observed by the judge.

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If therefore they have committed faults, let them be *chastiz'd*, not *destroyed*; let not their corporations be dissolved for any other crime than a failure of their allegiance. But I need not go into this or any other nice point of law, it being sufficient to show that the charter governments are clear of the several facts which have been objected against them, and assigned as matter of forfeiture. In the bill that was brought into the house of commons, there were two allegations against the charter and proprietary governments, which I shall first answer, and then go on to consider such other complaints as I have met with from time to time against these governments.

The 1st Charge against the Charter Governments, that they have neglected the Defence of the Inhabitants, answered.

THE first charge in the bill against the charter governments, is that *they have neglected the defence of the inhabitants*. This I must own, if true, and such neglect was voluntary, while they had

the means and power of defence in their hands, was a high and treasonable breach of their trust, and would be the strongest argument that could be brought for a resumption of the charters. But now, if I shall prove that these governments, especially the Massachusetts and Connecticut, have in all times past defended the inhabitants both by sea and land, as well against the French as Indian enemy: If I shall prove that they have all the late war protected one of the King's provinces lying on their confines, which would otherwise inevitably have been lost; and that another of those provinces took no part in the war, but maintained a shameful neutrality with the enemy, whereby the whole weight of the war fell on the Massachusetts: if I shall prove that they have frequently carried offensive arms into the French territories, and made one important conquest, since annexed to the British crown; and that all this was done at their own vast expence; then, I hope, New-England will stand fairly acquitted of this supposed crime of neglecting to defend the inhabitants, and
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be allowed not only irreprehensible in this respect, but to have highly merited of the crown and nation.

These facts are so certain and so well known, that I am persuaded this had never been assigned as a reason for dissolving the charters, but with a special view to Carolina, which, when this bill was brought into the house, was reduced to extremity by a war with the Spanish Indians; and being neither able to defend themselves, nor obtain succors from their lords proprietors, addressed the crown to take them under its protection. It was therefore natural enough to mention this in the bill; though with humble submission, it being the single case of one proprietary colony, it should in all reason have been restrained to that, and not extended to the charter provinces, which are neither alike constituted, nor were in the same distress. For New-England, as I shall presently show, has defended itself from the first beginning to this day without being burdensome to the crown, though not without great struggles and difficulties.

'Tis

'Tis true, they did not commence hostilities, nor even take up arms of defence, till they found by experience that no other means would prevail. The first planters, far from using the barbarous methods practised by the Spaniards on the Southern continent, which have made them detestable to the whole Christian world, sought to gain the natives by strict justice in their dealings with them, as well as by all the endearments of kindness and humanity. To lay an early foundation for a firm and lasting friendship, they assured the Americans, that they did not come among them as invaders but purchasers, and therefore called an assembly of them together, to enquire who had the right to dispose of their lands; and being told it was their Sachems or Princes, they thereupon agreed with them for what districts they bought, publickly and in open market. If they did not pay a great price for their purchases, yet they paid as much as they were worth. For it must be considered, that land was of little use to the natives, and therefore but of little value. They lived chiefly on fish and fowl, and hunting,
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because they would not be at the pains to clear and break up the ground. And as for their meadows and marshes, they were of no use at all, for want of neat cattle to feed them, of which there were none in those parts of the world.

The English had no sooner made some necessary provision for themselves, than they applied their cares for the benefit of the Indians, by endeavouring to bring them from their wild manner of life to the civil and polite customs of Europe. For this purpose, they mark'd out land to build Indian towns, supplied them with all proper utensils for building, prescribed to them forms of government, and above all, omitted no pains to bring them acquainted with the gospel. After some time, when it was found necessary, the colony made a law to forbid any person's purchasing lands of the Indians without the approbation of the general court, to prevent their being over-reached or ill used in their private bargains; and some land, lying very convenient for them, was by another law made inalienable, and never to be purchased out of their hands,

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than which nothing could more demonstrate the colony's care and concern for the natives.

I thought myself obliged to make this preface to the main argument, that I might wipe off an unworthy aspersions that has been cast upon the first settlers of New-England, that they never treated the savages well, but encroached on their land by degrees, till they fraudulently and forcibly turned them out of all. It was far otherwise, as I have shown; yet nothing could oblige the Indians to peace and friendship. They were alarmed with the strong jealousies of the growing power of the English, and therefore began a war with a resolution to extirpate them, before they had too well established themselves. Yet as terrible as this prospect was to two or three young colonies, who had work enough to defend themselves against famine, which in a cold barren country, surrounded with enemies, stared them in the face, they nevertheless made no application to the crown for assistance, but drew up articles of confederacy among themselves, by the name of the
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United Colonies of New-England, for their mutual defence. This done, they took the number of all the males in the several plantations, and raising a poll-tax according to each person's respective ability, they with one consent laid aside their plough-shares and pruning-hooks for the sword and the spear, and under the command of major-generals, whom they chose after the manner then in England, marched directly to the enemy's head-quarters, and strongest fortifications, from whence they drove them with great precipitation. Nor did they stop there, but pursued them through all their recesses, till they obliged them to enter into a solemn treaty of peace. Such however was the perfidious nature of the American savages, that they soon renewed the hostilities, though to their own fatal cost. For if the English experienced a variety of fortune, as could not but be expected in the vicissitudes of war, yet they were for the most part victorious, and in the course of some years, after many terrible slaughters of the enemy, subdued and utterly extirpated seven or eight fierce and populous nations.

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I am sensible some have endeavoured to depreciate these conquests, as gained over a rude and barbarous people, unexercised to arms; which if granted, still it cannot be said, that *the defence of the inhabitants was neglected*; and therefore the charter governments can fall under no censure, if they should be thought to have merited no praise. But if it be considered, that the New-England forces contended with enemies bloody in their nature, and superior in number; that they attacked them in deep morasses, defended with fortifications sufficiently strong, though not regular; and that the assailants were not provided with cannon, nor could approach by trenches, but advanced on level ground: and if to this be added the vast fatigues of their campaigns, where officers and soldiers lay on the snow without any shelter over their heads, in the most rigorous winters; I say, if a just consideration be had of these things, envy itself must acknowledge that their enterprizes were hardy, and their successes glorious. And though the brave commanders who led on these troops, and most of them died in the bed
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of honour, must not shine in the British annals, yet their memory ought to be sacred in their own country, and there at least be transmitted to the latest posterity.

The inland parts being now at rest, the war was removed to the frontiers, which were cruelly harrassed by other Indian tribes, animated and assisted by the French of Canada, who have given the Massachusetts but few intervals of peace, and those very short ones, from that time to this day. All this while THAT government was never wanting to protect the King's subjects within their jurisdiction, even in the remotest parts of it. They kept troops on foot, no less than six or seven hundred at a time, to cover the barrier line, and build forts wherever they were necessary; one of them named William-Henry, but commonly called Pemaquid-fort, because built on a river of that name, was in the heart of the enemy's country, and deserves a particular description. It was built of stone in a quadrangular figure, 737 foot in circumference, without the outer wall, and 108 foot square within the inner ones. It had 28 ports,

and 18 guns mounted, 6 being 18 pounders. The wall on the south line fronting to the sea, was 22 foot high, and above 6 foot thick at the ports, which were 18 foot from the ground. The round tower at the west end of this line, was 29 foot high: the wall on the east line was 12 foot high, on the north 10, and on the west 18. It stood 20 rod from high-water mark, and was garrisoned with 60 and sometimes 100 men. The expence in building and maintaining this garrison was considerable, yet the province chearfully submitted to it; nor did they decline rebuilding it, after it was surprized and demolished by the French, for any other reason, but that it was found by experience, the enemy could come many miles wide of it, and attack their frontiers. They therefore built forts at Saco and Casco, and other places most exposed, which answered the same end.

By this care the power of the enemy was very much broke, and the King's province of New-Hampshire, from whence the royal navy is annually supplied with masts, has been preserved, which otherwise must have
unavoidably

unavoidably been lost, being unable to help itself, and receiving no succours from home, New-York, another of the King's provinces, has always kept itself in a state of neutrality, contributing nothing to the common safety, whilst the Canada Indians, joined by parties of the French, used to make their rout by their borders without molesting them, and fall upon the out-towns of the Massachusetts. This behaviour was the more unpardonable in that government, because they have 400 regular troops maintained among them at the King's charge, and have the five nations of the Iroquois on their confines, who are entirely dependent on them, and might easily, had they been engaged in the common cause, at all times have intercepted the enemy in their marches, and thereby have prevented the depredations committed on his Majesty's subjects. Solemn and repeated applications were made to the government of New-York, by the governors of Massachusetts, Connecticut, and Rhode-Island, in joint letters on this subject, but in vain. The answer was, they could not think it proper to engage their Indians in
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an actual war, lest they should endanger their own frontiers, and bring upon themselves an expence which they were in no condition to provide for. And thus the poor charter colonies were left to bear the whole burden, and do all the work themselves.

The province of the Massachusetts-Bay has been equally solicitous to protect their inhabitants by sea, against any foreign invasion. For this end they have kept their militia well trained and disciplined, and by an act of the assembly obliged all persons, under proper penalties, to be well provided with ammunition and arms, that they might be ready in case of a sudden descent from abroad. Boston, which is their capital town, and principal sea-port, is fortified with two batteries to the sea, one at each end of the town; and about a league from it, at the entrance of the harbour, there is a strong beautiful castle, which is by far the finest piece of military architecture in the British America. It was built by Col, Romer, a famous German engineer, at the country's expence, and is called Castle William. It is

is a *Quarré* surrounded with a covered way, =Fr. *carre*
 and joined with two lines of communication
 from the main battery, as also a line of com-
 munication from the main gate to a redoubt,
 which is to prevent the landing. It is well
 situated near the channel, to hinder ships
 from coming up to the town, which must
 all come within pistol shot of this battery.
 It is mounted with 100 pieces of cannon,
 several of which are placed on a platform,
 near high-water mark, so as to rake a ship
 fore and aft, before she can bring her broad-
 sides to bear against the castle, and some of
 these cannon carry 42 pounders. In peace
 there is an independent company of 50. or
 100 men, I am not certain which, that
 constantly are on duty; but in time of war
 500 able men are exempted from all other
 military duty, to attend the service of the
 castle at an hour's warning, upon any signal
 given of the approach of an enemy. To
 prevent the castle's being surprized, there is
 a light-house built on a rock, appearing
 above water two leagues from the town,
 which makes a signal to the castle of the
 approach of any ships, and their number.

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The castle again warns the town, and if there be five ships or more in time of war, an alarm is given to all the adjacent country by firing a beacon. The province has also a galley or frigate well manned in time of war, to guard the coast from privateers, and to convoy their home trade. In short, nothing that could be done for defence of the subject by sea or land, has been left undone. It is really astonishing to consider, and difficult to believe, that these little governments should be able by their own strength, and at their own charge, to perform such great things.

And yet this is not all that must be said in their defence. For, as I have before observed, they have discovered a noble zeal to enlarge the British empire, by undertaking several chargeable expeditions against the strongest French settlements in America. In the year 1690 they made an armament against Port-Royal, which was a nest of privateers, and a Dunkirk to the American trade; besides that it was the head quarter, from whence parties of French and Indians issued out, and fell upon the eastern parts of
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of New-England. They made themselves masters of the place with all the country of Acadie, and Sir William Phipps, who commanded in chief, administered to the inhabitants an oath of allegiance to the crown of England; in which state that country remained till the peace of Ryswick, when it was delivered up to the French. The great service done the crown by this acquisition, is now too well known to need being particularly mentioned.

The New-Englanders being willing to pursue this good success, made an attempt against Canada the same year, with a fleet of 32 sail of vessels, besides tenders, having on board 2000 men, whilst at the same time a little army of 1000 English and 1500 Indians were to march by land and attack Montreal. 'Tis true, they fatally miscarried (and who can answer for the fortune of war?) but this ought not to lessen the merit of the enterprize, which they so well intended, and by which they so greatly suffered. It cost 150,000l. in money, and what was infinitely more valuable, the lives of 1000 men. Nor were

these vagrants, such as are picked up here in the streets, and disorderly houses, and thence pressed into the war, but heads of families, artificers, and robust young men, such as no country can spare, and least of all new settlements, where labour is the dearest thing in the world, because nothing so much wanted as hands. They did not indeed fall by the sword of the enemy, if that could alleviate their misfortune, but by a camp fever, by famine, and various disasters in their return home, occasioned chiefly by the early approach of a severe winter, which made it impracticable for provisions to follow them.

Great was the distress to which these poor colonies were reduced by this expensive and improsperous expedition; yet by the wise conduct of the governments, and the industry of the people, they so well recovered themselves in less than 20 years, as to resolve upon making another visit to their French neighbours, whom they saw daily growing in power, and threatening in time to destroy all the English settlements. But not thinking themselves strong enough

enough to deal with Quebec, they were content to make only an attempt on Port Royal, which was done accordingly, tho' not with the former success, the French fort being now strong and regular, and well provided for a defence or siege.

Not discouraged by this repetiton of misfortunes, when the late Queen signified to these governments, her royal intention to reduce Canada, and required them to provide their quota of troops; it can't be imagined with what alacrity they came into it, and made in all respects ample provision for it. And tho' the court altering their measures did not see meet at that time to proceed in the design, the colonies were put to near the same charge as if they had.

The next year they raised a body of troops again, which, commanded by Col. Nicholson, with 500 auxiliaries from hence, made another descent upon Port-Royal, and reduced it. For which service they were promised by her Majesty considerable advantages in respect of trade and the fishery, to which its hoped a just regard

will be had, when Nova-Scotia is brought under a civil establishment.

One may imagine now that these colonies were quite out of breath, and need a little rest. Yet presently after, when the great unfortunate expedition was set on foot against Canada under the command of General Hill and Admiral Walker, they furnished more than the quota assigned them, and provided all necessaries for the British troops in so short a time, that if they had not been animated by an extraordinary zeal, would not have been possible. And notwithstanding some people found it necessary to blame New-England, the better to excuse themselves, yet it has been acknowledged to me by English gentlemen, who were then on the spot, and well experienced in these affairs, that such a fleet and army wanting the necessaries they did, could not have been dispatched on so short warning from any port in England.

My answer to this article of accusation would be imperfect, if I did not still further observe, that these governments have assisted and relieved the most distant
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of his Majesty's islands, and the remotest settlements on the continent, when in distress, upon no other inducement, than that of being their fellow subjects. I will give two or three examples.

When in the year 1703, or about that time, Jamaica was in fear of an invasion, and desired some help from the government of the Massachusetts; they, notwithstanding the length of the voyage, which is often eight or nine weeks, sent them two companies of foot, commanded by Col. Walton and Capt. Larimore, both very gallant officers. The companies arrived safe, and served there two years, sometimes on shore, and at other times as marines on board the man of war, then in the service of the island; and I believe very few of these soldiers ever returned to their native country.

In 1705, when Nevis was plundered and ruined by Ibberville, New-England charitably, and of their own accord, raised 2000l. for their relief; which they sent in two vessels, having each 1000l. on board in flour and salt provisions for their subsistence,

sistance, and in materials for rebuilding their houses and mills. This they did generously, neither desiring nor receiving any returns, when that island came into more prosperous circumstances.

And now lately, when Carolina was engaged in a war with the Spanish Indians, and wanted arms and ammunition, they were supplied with both from Boston.

Upon the whole, what a vast fund of merit have the charter governments raised to themselves from a long series of faithful and heroic services! And how strangely out of countenance must this objection look, *that they have neglected the defence of the inhabitants!* I have only to wish, that his Majesty and his ministry had leisure from the important affairs of the nation, and of Europe, to consider their merit, and then I assure myself, instead of depriving them of their present privileges, they would continue them for ever; and if there was room for it, add as many more.

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The 2d Charge in the Bill against the Charter Governments, that they have exercised arbitrary Power, answered.

THE other charge in the bill is, *that they have exercised arbitrary power.* If this be aimed at the proprietary governments, which however I don't accuse, I have nothing to say, but I am sure that the charter governments stand clear of it. The thing speaks loudly for itself. For the governments, where there are charters, and those charters entire, all officers civil and military are elected by the people, and that annually; than which constitution nothing under heaven can be a stronger barrier against arbitrary rule. For should it be allowed, that the people, *corrupted or deceived*, might instead of wise magistrates chuse tyrants and oppressors to lord over them one year; yet it can't be imagined, that after they have felt the smart of it, they will do so the next. Nor can there be a greater obligation on the rulers themselves to administer justice than that their
election

election depends on it the next year. Hence the frequent choice of magistrates has been a main pillar upon which all who have aimed at freedom in their schemes of government have depended.

As the reason is incontestible, for the fact is apparent, that these governments, far from retrenching the liberty of the subject, have improved it in some important articles, which the circumstances of things in Great-Britain perhaps don't require, or won't easily admit.

To instance in a few: There has been from the beginning an office erected by law in every county, where all conveyances of land are entered at large, after the grantors have first acknowledged them before a justice of peace; by which means much fraud is prevented, no person being able to sell his estate twice, or take up more money upon it than it is worth. Provision has likewise been made for the security of the life and property of the subject in the matter of juries, who are not returned by the sheriff of the county, but are chosen by the inhabitants of the town

town a convenient time before the sitting of the courts. And this election is under the most exact regulation, in order to prevent corruption, so far as human prudence can do it. It must be noted, that sheriffs in the plantations are comparatively but little officers, and therefore not to be trusted as here, where they are men of ample fortunes. And yet even here such flagrant corruptions have been found in returning juries by sheriffs, that the house of Commons thought it necessary, in their last session, to amend the law in this point, and passed a bill for choosing them by ballot.

Redress in their courts of law is easy, quick and cheap. All processes are in English, and no special pleadings or demurrers are admitted, but the general issue is always given, and special matters brought in evidence; which saves time and expence; and in this case a man is not liable to lose his estate for a defect in form, nor is the merit of the cause made to depend on the niceties of clerkship. By a law of the country, no writ may be abated for a circumstantial error, such as a slight mis-nomer or any informality.

lity. And by another law, it is enacted, that every attorney taking out a writ from the clerk's office, shall indorse his surname upon it, and be liable to pay to the adverse party, his costs and charges, in case of non-prosecution or discontinuance, or that the plaintiff be non-suit, or judgment pass against him. And it is provided in the same act, that if the plaintiff shall suffer a non-suit by the attorney's mislaying the action, he shall be obliged to draw a new writ without any fee; in case the party shall see fit to revive the suit. I can't but think that every body, except gentlemen of the long robe, and the attorneys, will think this a wholesome law, and well calculated for the benefit of the subject. For the quicker dispatch of causes, declarations are made parts of the writ, in which the case is fully and particularly set forth. If it be matter of account, the account is annexed to the writ, and the copies of both left with the defendant; which being done fourteen days before the sitting of the court, he is obliged to plead directly, and the issue is then tried. Whereas by the practice of the court of

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King's-Bench, three or four months time is often lost after the writ is served, before the cause can be brought to issue.

Nor are the people of New-England oppressed with the infinite delays and expence which attend the proceedings in Chancery, where both parties are often ruined by the charge and length of the suit. But as in all other countries, England only excepted, *ius & æquum* are held the same, and never divided; so it is there: a power of Chancery being vested in the judges of the courts of common law as to some particular cases, and they make equitable constructions in others. I must add, that the fees of officers, of all sorts, are settled by acts of assembly at moderate prices, for the ease of the subject.

It were easy to mention other articles, but that I persuade myself it is needless. The charter governments are celebrated for their excellent laws, and mild administration; for the security of liberty and property; for the encouragement of virtue and suppression of vice; for the promoting letters, by erecting free-schools and colleges;

and, in a word, for every thing that can make a people happy and prosperous. To these arts it is owing, that New-England, though she has attained but little more than the age of a man, with all the disadvantages under which she labors in respect to her trade and climate, and almost a perpetual Indian war, has hitherto flourished far above any other of the plantations.

This being the case of the charter governments, let us turn the tables, and see how it fared with them when in an *evil reign* they lost their charters. Then the governor of New-England, with four or five strangers of his council, men of desperate fortunes, and bad principles, made what laws, and levied what taxes they pleased on the people. They, without an assembly, raised a penny in the pound on all the estates in the country, and another penny on all imported goods, besides twenty pence per head as poll money, and an immoderate excise on wine, rum, and other liquors. Several worthy persons having, in an humble address represented this proceeding as a grievance, were committed to the common goal for a high

high misdemeanors, denied the benefit of the habeas corpus act; tried out of their own country; fined exorbitantly, and obliged to pay 100 l. for fees, when the prosecution would hardly have cost them so many shillings in Great-Britain. And to complete the oppression, when they, upon their trial claimed the privileges of Englishmen, they were scoffingly told, *those things would not follow them to the ends of the earth.* Unnatural insult; must the brave adventurer, who with the hazard of his life and fortune, seeks out new climates to enrich his mother country, be denied those common rights, which his countrymen enjoy at home in ease and indolence? Is he to be made miserable, and a slave by his own acquisitions? Is the labourer alone unworthy of his hire, and shall they *only* reap, who have neither sowed nor planted? Monstrous absurdity! Horrid inverted order! These proceedings, however arbitrary and oppressive, were but the prelude: the catastrophe was, if possible, yet more dismal. Having invaded their liberties, by an easy transition the next attack was directly on their

their properties. Their title to their lands was absolutely denied by the governor and his creatures, upon two pretences: one, that their conveyances were not according to the law of England; the other, that if they might be thought to have had something like a title formerly, yet it now ceased by the revocation of their charters. So that they who had fairly purchased their lands, and held them in quiet possession for above fifty years, were now obliged to accept new deeds from the governor, and pay for them a third part of their value, in order to ascertain their titles, or otherwise they would be seized for the crown.

It would be an injury to virtue, if I did not in this place pay distinguished honor to the memory of an honest and worthy patriot, Col. Shrimpton, long since deceased, who being rich in lands, was courted to receive new patents *gratis*, that others might be drawn in by the authority of his example; but when he was apprized of their design, he chose rather to have his lands seized (and they were seized) than by such a base compliance betray his countrymen into the snares prepared

prepared for them. I should not have thus far entered into the detail of things so long past, but to show from experience, as well as from the reason and nature of the thing, that charters are not the *causes* of arbitrary government, but indeed *strong works* raised against it, which once thrown down, oppression rushes in like a tide, and bears down every thing before it.

Having thus answered the allegations of the bill, in a manner which I hope may be satisfactory, I am next to consider such arguments as I have met with in conversation from persons in the ministry and others.

The third Objection, that the Acts of Trade are disregarded, answered.

WHAT I have heard most insisted on is, *That the Acts of Trade and Navigation, made on purpose to render the plantations beneficial to Great-Britain, are disregarded in the charter governments; and that this evil cannot be effectually cured; but by a resumption of the charters.*

To which I answer very particularly and distinctly.

First. The complaints on this head are for the most part of an old date, and when the bill against the charters was depending in the house of Commons, were produced from the files of the Plantation Board, whither they had been transmitted in former reigns, when custom-house officers in the plantations were such great rarities, that One collector served Four entire provinces. And can it be thought strange that merchants, whose business is gain, should have sometimes for lucre transgressed the acts of trade, when there were no officers to see them duly observed? The case is vastly different now. Officers of the revenue are multiplied, and are extremely rigorous, so that instead of *their* complaints of unfair traders, the merchants on the other hand, greatly complain of the oppression of the officers. I have seen an account of such intolerable hardships imposed on fair well-meaning traders, under colour of law, that one would hardly give credit to the least of the articles, if the whole had not been delivered publicly in

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an assembly of one of the provinces by a worthy member, and afterwards printed with his name to it. The author I refer to, after a recital of the several facts, in which he is very full as to every circumstance, draws up this melancholly conclusion, That the custom-house officers had, by their violent practices, either seized or driven away all the vessels belonging to that part of the country, so that they had no sloops left to carry their produce to market in the adjacent colonies.

2dly. If there be some late complaints, perhaps upon examination, they will appear to be ill-grounded. I can speak this knowingly with respect to a complaint transmitted not long since by the surveyor-general of North-America and the collector of New-London, against his Majesty's colony of Connecticut. These gentlemen, one or both of them, drew up a charge against that innocent and loyal colony in very severe terms, as *setting the laws of trade and navigation at the utmost defiance*. Whereas, in truth and in fact, the instances they produced of such defiance were clear

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proofs

proofs of that colony's inclination to support the laws of trade and their own traffick, and on the contrary, what the custom-house officers insisted on was manifestly subversive of both, and could serve no end in the world but enhancing the collectors fees. The case is this: There are on the coast of his Majesty's colony of Connecticut eight convenient ports or harbours for shipping. The government there did from the beginning, place a naval officer in each of them, to see that the several acts of trade were duly observed. After the act of the 7th and 8th of King William, the collector of the colony appointed a deputy in each of the ports, who required all masters of vessels, outward and inward-bound, to enter and clear with him as well as with the naval officer, whether they had any goods on board paying a duty to the crown or not; which they submitted to, tho' not obliged by law, as Sir William Thompson, the late solicitor general, has upon a full and impartial state of the case given his opinion. The present collector, thinking it best to receive all the fees himself, refuses

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to make any deputations, or allow the power of the naval officers to be sufficient in his absence; but commands all masters of vessels whatsoever to repair to the port of his residence, and there to enter and clear with him: by which regulation seven of the eight ports are left open for illegal traders, to the great detriment of the crown; whilst, with equal injury to the subject, ships sailing from one town to another, or perhaps to a neighbouring province with not better a cargo than a few deals and turnips, shall be obliged to go sometimes 100 miles out of their way, which often happens to be further than the port of delivery, to find the collector. The agent for the colony has fully represented this hardship to the commissioners of the customs, and shewn the injury that will be done to the King as well as the subject by this establishment; but all in vain, there is no redress; and what puts one out of all patience, this very case is cited as one allegation among others to support the general charge against the charter governments

ments, that they carry on an illegal commerce.

rigdly. If it were true, that some persons did now and then concern themselves in an illegal trade, can it be thought just or reasonable that the whole community should suffer for their private fault? No body will say that the acts of trade are perfectly observed in the provinces immediately under the crown, or in Great-Britain itself. I believe there is no corporation in the kingdom, being a sea port, wherein there are not at some time or other contraband goods imported, or other goods clandestinely run to the prejudice of the King's duties. In this port of London great abuses are daily committed in spite of the utmost vigilance to prevent them. The fraud of relanding calicoes after a pretended exportation, only to receive the drawback, is a most flagrant instance, if one either considers the perjuries that attend it, or the immense sums that are thereby robbed from the publick, or the vast injuries that are done by it to the honest linen-draper. And yet, who

ever used this,

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like kind, as an argument to disfranchise this ancient corporation? The rule of law is, *Noxa Caput sequitur*; and it is agreeable to natural justice, that every man should suffer for his own transgression. On the other part, if a corporate body were to forfeit their privileges for every private person's offence, they would be of no value. A charter so limited could not stand a week, nor would be worth the expence of the great seal.

4thly. I might still make a further remark. If the grievances complained of were not antiquated stories, but subsisting at this time; if they were fairly represented; and lastly, if it were equitable, that the crimes of persons in a private capacity should be expiated by the publick, yet no conclusion could be drawn from these premises prejudicial to the charters, because the dissolving them would be no remedy in any sort. The reason is plain, that putting this case, not only the inspection of trade, but the prosecution, trial, and punishment of every offender would rest in the same hands, and be carried on in the same

same manner as before. All the officers of the revenue are *in the present state of things* appointed by the crown; all breaches of the acts of trade, saving a single one excepted by act of parliament, are cognizable only in the court of admiralty, where the judge and every inferior officer are created either by commissions under the broad seal, or by warrants from the Lord high admiral. The laws of the country are not pleaded in that court, but acts of parliament, and where they are silent, the civil and maritime laws take place. The forms of proceeding, were *they* of any consequence, are regulated after the manner practised in Doctors Commons. If then his Majesty should resume the charters, nothing more could be done to preserve the acts of trade than is at present, and therefore how plausible soever this pretext may appear at first sight, it is plain, upon a nearer view that there is no weight in it.

I am apprized that the judge of the vice-admiralty in New-England has often complained home of the frequent prohibitions

bitions served on him from the courts of
 judicature there, which he says, *Weaken,*
and in a manner suppress the authority of that
court, and all the good ends for which it was
constituted. But neither does this matter
 in the least relate to the charters, tho' there
 were reason for the complaint, as on the
 other hand, I shall immediately show there
 is none. The right of the courts of com-
 mon law within the province of the Massa-
 chusets, to restrain the excesses of the
 admiralty jurisdiction, are not derived from
 their charter, but from subsequent laws of
 the province, confirmed afterwards by the
 crown; which power therefore, whether
 the charters stand or fall, will remain un-
 hurt, and still the same. But the manner
 of this complaint is wholly groundless,
 which I must particularly show, because
 a handle has been taken from it to hurt
 New-England in its charters. I therefore
 take leave to say, That the superior court
 of judicature for the province of the Massa-
 chuset's Bay has a legal power to issue
 prohibitions to the court of vice-admiralty :
 that it is very fitting and necessary such a
 power

power should be lodged in that court: and, lastly, that the particular cases wherein the judges of that superior court have hitherto exercised this power, were apparently without and beyond the admiralty jurisdiction.

To begin with the power itself: 'Tis founded on an act of the assembly passed in the 11th year of King William, and by him confirmed, entitled, *An act for establishing a superior court of judicature, court of assizes and general gaol delivery.* The act after a recital of several powers vested in the court, has this general clause: *And the said court is hereby vested with the same power as fully and amply to all intents and purposes whatsoever as the courts of King's-bench, Common-pleas and Exchequer within his Majesty's kingdom of England have or ought to have.* By consequence then, if the court of King's-bench has a power to restrain the court of admiralty in England, this court of judicature must have the same in New-England.

The reasons for such a restraining power are as strong in New-England as in Great-Britain.

Britain. It has been ever boasted as the peculiar privilege of an Englishman, and the grand security of his property, to be tried by his country and the laws of the land; whereas this admiralty method of trial deprives him of both, as it puts his estate in the disposal of a single person, and makes the civil law the rule of judgment; which though it may not perhaps properly be called foreign, being the law of nations, yet 'tis what he has not consented to himself, or his representative for him. A jurisdiction therefore so founded ought not to extend beyond what necessity requires, that is, to nothing but what is really transacted on the high seas, which not being *infra corpus comitatus*, is not triable at common law. If some bounds are not set to the jurisdiction of the admiralty, beyond which it shall not pass, it may in time, like the element to which it ought to be confined, grow outrageous and overflow the banks of all other courts of justice. This danger is still greater in the plantations, where neither the judge nor any of the inferior officers of the

admiralty have salaries, or perhaps other dependance, than upon what they get by their fees, and therefore must be strongly tempted to receive all business that comes before them, however improper for their cognizance.

In vain do the advocates for the admiralty urge on this occasion, that an appeal lies home, and therefore, if a cause tried there be found to be *coram non judice*, justice will be done to the injured party on the appeal. For if this argument has any force, it would take place in England, because an appeal lies here from the sentences of the admiralty to the court of delegates, and yet that is not thought a sufficient reason to prevent the court of King's-Bench from granting prohibitions when they think them necessary. Besides it is to be remarked, that the appeal does not lie to the King and council as it does from other courts, but to the judge of the admiralty, and therefore one may imagine that the appellant will have but a *cold cause* of it; for I believe it has been rarely found that
any

any court was forward to limit its own power.

If then the court of judicature in New-England has a right in general to award prohibitions against the court of vice-admiralty, there will, I believe, be no dispute as to the particular instances wherein they have exercised the power. Hitherto there have been but three; nor did the judges come into these, but upon solemn argument first had before them by the ablest lawyers on the spot. Not that I suppose there was real difficulty, but it being a case *prima impressionis* in that country, 'twas thought proper to proceed so deliberately.

One prohibition was granted on a libel filed upon the wool act of the 10th and 11th of William III. which provides, That all offences therein mentioned shall be tried in some *court of record*, which 'tis certain the court of admiralty is not. Another was issued to stop proceedings in a cause which had been tried before at common law, and received the judgment of the court. If the court of vice-ad-

miralty should assume such a prerogative as this, instead of being confined to maritime affairs, it would be the supreme court in all causes, and the *dernier resort* of justice. The third prohibition was upon a charter party made and executed upon the land with a penalty under the hand and seal, which nevertheless was libelled in the court of admiralty, and the judge would very gravely have heard and determined it, on a colour of it's having relation to a voyage, or at least to something which was to be performed on the seas. Altho' this is so far from being a good reason, that there are many cases in the books, where a cause has been *wholly maritime*, and even the contract made upon the high seas, yet, because it was reduced to writing afterwards, and sealed on the shore, it has been judged to be without the admiralty jurisdiction. My Lord Coke is so clear and full upon this subject, and the limits of the admiralty jurisdiction are so exactly described in the several acts of parliament made for this end, to say nothing of the cases in the books, where
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great damages are given for infringing the rights of the common law, that I shall refer to them,* and pursue this argument no further.

The 4th Objection, That they have made laws repugnant to the laws of Great-Britain, answered.

ANOTHER thing alledged against the American charters is, *That their governments have made laws repugnant to the laws of Great-Britain, contrary to the powers given them, and thereby have incurred a forfeiture of the charters.*

* Vid. My Lord Coke's fourth Institutes, as also the several Statutes of 13 R. 2 cap. 5. 15 R. 2. cap. 3. By the statute of the 2d. H. 4. cap. 11. in case a matter triable at common law be brought into the court of admiralty, the party grieved shall recover double damages. See the statute 27 Eliz. cap. 11. as also the cases in the books, particularly that of Sir Josiah Child, and Sands in Salk. 31, 2. where an action was brought on the statutes of 13 R. 2. 15 R. 2. and 2 H. 4. for arresting a ship by admiralty process, the matter not being within the cognizance of that court; and though there was no suit, nor any plaintiff or defendant, yet it was held to be a prosecution, and double damages were recovered. Error was afterwards brought, and the judgment affirmed.

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If the Massachuset charters were singly in question, this allegation would have no place, because no act passed by that assembly has the force of a law till the King's governor has assented to it, and then it comes home for his Majesty's approbation, who, if he pleases, annuls it. There is therefore no danger of their making laws repugnant to the laws of Great-Britain; or if they should, there being a remedy always at hand, if it be not made use of, the fault will lie some-where else, and can't affect the province.

But let us examine a little, whether any of the other governments acting under charters, may deserve this censure; in order to which we must consider what this phrase [REPUGNANT TO THE LAWS OF ENGLAND] imports. I believe it will be easily allowed, that a law may be *various* from the laws of England, and yet not repugnant to them; or otherwise these governments must make no laws at all, which no body will say, who knows that a right of legislature, is the most essential part of their charters, and what indeed the reason and nature of the thing make absolutely necessary. Every country

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has circumstances peculiar to it self in respect of its soil, situation, inhabitants, and commerce, to all which, convenient laws must, with the nicest care and judgment, be adapted; whereas the laws of England are calculated for their own meridian, and are many of them no ways suitable to the plantations, and others not possible to be executed there.

This point, however clear and evident, has not been always rightly understood. There was a pretty extraordinary instance of it a few years since, with respect to a law in force in Carolina for chusing jury-men by ballot. This was part of their original body of laws framed by the famous Earl of Shaftsbury, and what they had found by experience, a great preservative to their liberties and properties. Yet I don't know how it happened, the Lord Palatine, and other Lords, proprietors of that province, imagining this law to be repugnant to the laws of Great-Britain, and that they should thereby incur a forfeiture of their charter, directed their landgraves to get it repealed. The people in that government, unwilling
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to part with what they so much esteemed, sent over two deputies express to set the matter in a fair light before their lordships. When they arrived, I accompanied them at their desire to the board, where after some short debates, we satisfied their lordships that their charter could be in no danger on this account, and that one law might be various from another without being repugnant to it.

Having premised this distinction, I answer the question in direct terms, *That then a law in the plantations may be said to be repugnant to a law made in Great-Britain, when it flatly contradicts it, so far as the law made here mentions and relates to the plantations. Contraria sunt ad idem;* and therefore one thing cannot be said to be contrary to another, that does not immediately relate to it, and diametrically oppose it. For the purpose, if a law passed here has its force restrained to England, Wales, and the town of Berwick on the Tweed, no law in the plantations can properly be said to repugn it; because whatever diversity there may be between them, yet one having no manner of relation
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to the other, they are not repugnant. I believe I am right in my logick, but am sure I am as to the legal acceptation of the phrase, because what I advance is founded on the words of the act of parliament. It is the 7th & 8th of King William, which (Cap. 22. Sect 9th) enacts, *That all laws, by-laws, usages or customs at this time, or which hereafter shall be in practice, or endeavoured or pretended to be in force or practice, in any of the plantations, which are in any wise repugnant to the before-mentioned laws or any of them; so far as they do relate to the said plantations or any of them, or which are any ways repugnant to this present act, or to any other law hereafter to be made in this kingdom, so far as such law shall relate to and mention the said plantations, are illegal, null and void, to all intents and purposes whatsoever.* If then we will take the sense of the phrase from an act of parliament, (and where can we have a better expositor?) no man will pretend that there was ever a law made in the plantations repugnant to the laws of Great-Britain. And yet I am apt to think, that if an assembly should do a thing so illegal, they ought to

be punished for it themselves, and not their constituents. They were chosen and delegated by the people to frame laws according to the powers given them by their respective charters, which if they exceed, why should a whole country suffer for their offence? This would be punishing the innocent for the guilty, and is not agreeable to the law in other cases, where, if the trustee does any act that is illegal and beyond his trust, the *Cestuy q. Trust* is not obliged by it, nor to be hurt for it.

If the words will receive any other construction than what the act of parliament has put upon them, I think it must be supposed to be this; that the patentees shall not, under colour of their particular charters, presume to make any laws inconsistent with the great charter and other laws of England, by which the lives, liberties and properties of Englishmen are secured. It seems reasonable enough to think that the crown might intend by this injunction to provide for all its subjects, that they might not be oppressed by arbitrary power; but in whatever distant part of the world they were settled,

settled, being still subjects, they should have the usage of Englishmen, be protected by the same mild laws, and enjoy the same happy government, as if they continued within the realm. Consider the expression in this light, and the colonies (which I am defending) are still safe, having in no respect impaired, but many ways improved, the liberty of the subject, as I have before shown under another head. If hereafter so unaccountable a thing should happen, that those privileges which were designed as fences against oppression and despotic power, prove the means to introduce both, and the body of the people should petition to be relieved from the yoke of their charters, for my part, I'll be no longer an advocate for them. Only, in the mean time, I heartily wish they may not be disturbed, but rest in peace till then.

A 5th Objection, that the Charter Colonies will grow great and formidable, answered.

THERE is one thing more I have heard often urged against the charter colonies, and indeed 'tis what one meets with

from people of all conditions and qualities, though, with due respect to their better judgments, I can see neither reason nor colour for it. 'Tis said, *that their increasing numbers and wealth, joined to their great distance from Great Britain, will give them an opportunity, in the course of some years, to throw off their dependance on the nation, and declare themselves a free state, if not curbed in time, by being made entirely subject to the crown.* Whereas in truth there is no body, though but little acquainted with these, or any of the northern plantations, who does not know and confess, that their poverty and the declining state of their trade is so great at present, that there is far more danger of their sinking, without some extraordinary support from the crown, than of their ever revolting from it. So that I may say without being ludicrous, that it would not be more absurd to place two of his Majesty's beef-eaters to watch an infant in the cradle that it don't rise to cut its father's throat, than to guard these weak infant colonies to prevent their shaking off the British yoke. Besides, they are so distinct from one another in their forms

forms of government, in their religious rites, in their emulation of trade, and consequently in their affections, that they never can be supposed to unite in so dangerous an enterprise. It is for this reason I have often wondered to hear some great men profess their belief of the feasibility of it, and the probability of its some time or other actually coming to pass, who yet with the same breath advise that all the governments on the continent be formed into one, by being brought under one vice-roy, and into one assembly. For surely if we in earnest believed that there was, or would be hereafter, a disposition in the provinces to rebel and declare themselves independent, it would be good policy to keep them disunited; because if it were possible they could contrive so wild and rash an undertaking, yet they would not be hardy enough to put it in execution, unless they could first strengthen themselves by a confederacy of all the parts.

But to return from this short digression: our neighbours in Holland, who are allowed to be a wise state, did not entertain these jealousies of their subjects in India, when they

they were a young and growing plantation, nor do they even now, when they are a potent flourishing people. Had they done so, and in consequence of it restrained and checked them, Holland would not at this day have drawn such immense riches from that part of the world, and furnished all Europe with Indian commodities. And yet what reason can be assigned for the jealousies we entertain of our colonies, which the Dutch have not, and far stronger with respect to their Batavian subjects? If the distance be urged as an argument, every body knows that New-England is but a thousand leagues from the British shore, but the Dutch must run eight times that ground from Amsterdam before they arrive at Batavia. Or if the number and power of the inhabitants should give any umbrage, this is an article which with respect to Batavia won't admit of the most distant comparison. The general of that place maintains a port superior to many sovereign princes in Europe, and has all the Kings in Java in a manner tributary to him. He has 3000 standing European troops, not reckoning

reckoning the natives; and all the Dutch inhabitants live in that flowing wealth and plenty which makes Batavia look like the capital of a great and mighty empire. But do the States of Holland look on this their prosperous condition with envious or jealous eyes? Just the reverse; they do every thing in their power still to promote and advance it, well knowing their foreign plantations can't thrive, but they must receive the benefit of it themselves, and therefore justly esteem the wealth of their subjects abroad as their own riches. Why then should not Great-Britain form the same judgment, and proceed by the like measures in regard to her American dominions, from whence she receives the greatest advantages? It were no difficult task to prove that London has risen out of the plantations, and not out of England. 'Tis to them we owe our vast fleets of merchant ships, and consequently the increase of our seamen, and improvement of our navigation. 'Tis their tobacco, sugar, fish, oil, logwood, and other commodities, which have enabled us to support

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our trade in Europe, to bring the balance of some countries in our favour, which would otherwise be against us, and to make the figure we do at present, and have done for near a century past, in all parts of the commercial world.

The mother kingdom must therefore needs rejoice in the prosperity of every one of her colonies, because it is her own prosperity. The fable of the belly and members illustrates this argument. It would be unreasonable for the belly to grudge the labour of digesting the food and dispersing the blood and juices to the extreme parts, seeing they return purified and exalted in the circulation. There is a close analogy between the natural body and the body politick; as in the one a finger cannot ach, but the whole feels it, so in the other the remotest plantation can't decay, but the nation must suffer with it.

If it be said that the charter colonies are not so valuable as some of the rest, I answer, that the inhabitants have the more need of their charters to make them amends; for the people must have some
encouragement

encouragement to sit down on a cold and barren soil. Yet I have shewn before, that they are many ways of great use and advantage to the crown; to which I add, that they will be more so than ever in a few years, to strengthen the British empire in America against the formidable settlement of Louisiana, which for some years past has been carried on by the French with great expence, and with the utmost vigor and application.

This being the case, I think with humble submission, it is very preposterous to amuse ourselves with vain imaginary prospects of what is scarce possible to come to pass, and neglect doing what is absolutely necessary; I mean, the enlarging and supporting our provinces, that they may be able to defend themselves against being one day totally extirpated by a foreign power. And then I have only to suggest an old approved maxim, *That every thing is best preserved by the same principles by which it was at first formed*, and consequently the best method of encouraging the charter colonies is, to preserve their privileges inviolate, without which they had never been settled.

The 3d Proposition, That it is not the interest of the crown to resume the charters if forfeited.

ANOTHER proposition I advanced was, That if these governments should be adjudged to have forfeited their charters back to the crown, yet it is

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not the true interest of the crown to resume them.

It is a generally received opinion, that the people in the plantations have an interest distinct from that of the crown; when it is supposed, at the same time, that the interest of the governors, they being the King's representatives, are one with the crown; and from these premises it is concluded, that there cannot be too much power given to the governors, or too little to the people. Whereas, with humble submission, I conceive this to be a very wrong judgment, and that the reverse of it is true. The only interest of the people is to thrive and flourish in their trade, which is the true interest of the crown and nation, because they reap the profit of it. When, on the other hand, the view that governors generally have is private gain, which being too often acquired by discouraging and oppressing trade, is not only an interest distinct from that of the crown, but extremely prejudicial to it. The trade of a young plantation is like a tender plant, and should be cherished with the fondest care; but if, instead of that, it meets with the rough hand of oppression, it will soon die. The proper nursery for this plant is a free government, where the laws are sacred, property secure, and justice not only impartially but expeditiously distributed. For to what purpose shall the merchant expose his estate to the danger of the sea, the enemy, and
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many more accidents, if after all he can't save it at home from rapine and violence?

As this is evident, so is it that whatever injures the trade of the plantations, must in proportion affect Great-Britain, the source and centre of their commerce; from whence they have their manufactures, whither they make their returns, and where all their superlucration is lodged. The blow then may strike the colonies first, but it comes home at last, and falls heaviest on ourselves.

That governors are apt to abuse their power and grow rich by oppression, experience shows us. We have seen, not many years since, some governors seized by their injured people, and sent prisoners to Whitehall, there to answer for their offences. Others have fallen victims on the spot, not to the fury of a faction or rabble, but to the resentment of the whole body of the people, rising as one man to revenge their wrongs. Others, after being recalled, have been prosecuted at the King's-bench bar, pursuant to an act of parliament made in the reign of the late King William, whereby it is provided, That governors shall be impleaded at home for any injuries done in their governments abroad. We have had more than one flagrant instance of this very lately, where governors have been convicted and censured, not so properly for oppressing, as for a direct plundering their people; and such other acts of mis-rule and lawless power, as one would not have thought it possible they should have committed, if experience

had not shown it to be more than possible.

I don't however intend, by what is here said, to reproach our own nation, as if we were greater sinners than others, or to reflect on the present times, as if they were worse than the former. I know that the same abuses have been practised in every age as well as this, and in foreign colonies as well as our own. The antient Romans were as brave and as virtuous a people as any in the world, and yet their pro-consuls or governors were very guilty in this respect. Their corruption was so notorious as to be distinguished by the name of *crimen repetundarum*, a phrase not used in any other meaning, and derived from the obligation which the Roman senate laid on their governors to make restitution.

Nor have the modern governors in the French and Spanish plantations been less criminal. It's a famous story of a great minister at the court of Madrid, who writ to his friend the vice-roy of Peru, that great complaints were made against him for having extorted immense sums of money from the people in his government; *Which, says he, I wish may be true, or else you are undone.* It seems the same thing that wounded him, was necessary to heal him; and what put him out of favour, was the only thing that could restore him.

Indeed it can hardly be expected but these corruptions must happen, when one considers that few gentlemen will cross the seas for a government, whose circumstances are not

not a little strait at home, and that they know by how slight and uncertain a tenure they hold their commissions; from whence they wisely conclude, that no time is to be lost. And then for the account to be rendered at home, that is not thought of at so great a distance, for *procul a Jove, procul a Fulmine.*

To enlarge then the powers of governors, is to give them greater power to oppress; and to vacate the charters, is to enlarge their power, the government in that case of course devolving upon them; as we see in those plantations which never had any charters, but are immediately dependent on the crown. They have, in a manner, the intire legislative and executive powers, or at least so great an influence on the constituent parts of the former, as leaves them little more than nominal sharers, serving rather as screens to the governor than a defence to the people. The militia is absolutely vested in the governors, which influences all elections of representatives: they appoint judges, justices, sheriffs, and other civil officers, with the consent, it's said indeed, of the council; but that such consent voluntary or involuntary will ever be refused, seems too much to be expected, if we consider that although the governors do not indeed appoint the council, yet they recommend proper persons to the King; and it may be supposed, that a gentleman who is intrusted with the chief command of a province, and is actually on the spot, will be thought the best judge who
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are fit to serve, and therefore his recommendation will almost always prevail. Besides, if there be a turn to serve, or an emergency real or imaginary, and any of the members should be so refractory as not to give into his measures with an implicit faith, the governor can suspend as many of them as he pleases; and when he has reduced the board under a number limited in his instructions, he can then fill it up to that number *instantly* with whom he pleases; and who will they be, may we presume, but such as are passively obedient to his will? And too many such there are in all colonies so constituted, who are content to be *saddled* themselves, provided they may *ride* others under the *chief rider*. I must farther observe, that where there are no charters, there are courts of equity established, in which the governor is always chancellor, and for the most part chief justice, and ordinary at the same time; which puts the estates, lives and liberties of the inhabitants, saving the liberty of appeal home, intirely in his disposal; and even an appeal, in all cases under a considerable sum, in all cases of the ordinary jurisdiction, and in all cases capital, is either disallowed by his instructions, or wholly in the governor's breast to allow or not.

The sum of my argument is, that the benefit which Great-Britain receives from the plantations, arises from their commerce: that oppression is the most opposite thing in the world to commerce, and the most destructive

structive enemy it can have: that governors have in all times, and in all countries, been too much inclined to oppress: and consequently it cannot be the interest of the nation to increase their power, and lessen the liberties of the people. I am so sanguine in this opinion, that I really think it would be for the service of the crown and nation, to incorporate those governments which have no charters, rather than disfranchise those that have.

The 4th Proposition, That it seems inconsistent with justice to disfranchise the charter colonies by an act of parliament.

THE last thing I proposed to consider, was, how far it may be consistent with justice, to deprive the colonies of their charters, without giving them a fair trial, or any previous notice.

It is certain, that bills of attainder, such as this would be, have been seldom used in England, and then only upon the most extraordinary occasions: as when flagrant crimes have been committed, of a new and unusual nature, against which the law had made no provision; or when the witnesses have avoided, and perhaps by the contrivance of the party; or lastly, which is the most common case, when the attainted person having himself absconded, and fled from justice, has thereby made such an extrajudicial proceeding justifiable. It is also as certain that neither of these things can be pleaded in the present case, which I need
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not be particular in shewing, because not suggested, nor is there the least colour for such suggestion. And yet I pretend to know the people in the charter governments so well, and to be so thoroughly acquainted with their meek principles of obedience, that I dare affirm, if such an act should pass, however rigorous and severe they might think it within themselves, they would not let fall an indecent word of their superiors, but would receive the news with the lowest submission: so great is their loyalty to the King, and so profound their regard for the resolutions of a British parliament, the wisest and most august assembly in the world. However, seeing there is no such act already passed, and it is to be hoped from the honor and justice of parliaments, never will, it can't be thought a crime modestly to state the hardship of the case. I don't mean with respect to the merits of it, which have been already considered, but as to the *manner of proceeding by bill in parliament*. It is a most sacred and unalterable rule of justice, and has ever been so esteemed by all the civilized nations of the world, that no person be deprived of life, liberty or estate, till he has had time and opportunity to make his defence. And if the matter in judgment, be of great value, dearly paid for, and long enjoyed, it adds much to the weight of the argument, and aggravates the injury, in depriving the possessors unheard. Now this is the case of the charter governments. How great the purchase consideration was, has

has been before said; but how valuable the charters themselves are, can never be said, liberty being inestimable. And for the time they have enjoyed them, were they not on record, it would be what the civilians call *immemorial*, one of them being above four-score years standing.

It seems therefore a severity without a precedent, that a people who have the misfortune of being a thousand leagues from their Sovereign, a misfortune great enough in itself, should UNSUMMONED, UNHEARD, IN ONE DAY be deprived of all their valuable privileges, which they have enjoyed for near an hundred years. It's true, the legislative power is absolute and unaccountable, and King, Lords and Commons may do what they please; but the question here is not about *power*, but *right*: and shall not the supreme legislature of all the nation do right? One may say, that what the parliament can't do justly, they can't do at all. *In maximis minima est licentia*. The higher the power is, the greater caution is to be used in the execution of it, because the sufferer is helpless, and without resort.

When in an arbitrary reign, the charter of New-England was vacated, a *quo warranto* first gave the colony notice to prepare for their trial. Although this was a prosecution at law, and the high court of parliament is not strictly confined to the forms of the courts below, yet it is not doubted but the great fountain of law and justice will have some regard, if not to all the rules made for inferior judicatures, yet to such as

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are essential to justice. And so in other cases it has. For the purpose: if a bill be brought into the house of Commons that touches any man's property in Ireland, it must lie 30 days, that the party may have notice, and not suffer unheard. Why then should not a reasonable time be allowed to the subjects in America, in proportion to their more distant situation; seeing they are no less the subjects of the crown, than the inhabitants of Ireland; and liberty is at least as valuable as property; and surely the concern of whole provinces challenges as much regard as the interest of a single person. If it should be said, as I confess a great minister once said to me, *That the regulation of charters must be looked on as part of the public œconomy, and not the affair of any particular person or province*; I humbly apprehend, with the utmost deference to that great person, that this does not reach the present case. It is indeed very reasonable, that all publick affairs be subject to the determination of the publick wisdom, and there is no occasion to notify any body, because every body is supposed to be present in the representative body of the whole; but here the provinces to be censured and deprived, have no representative in parliament, and consequently must be considered as absent persons, suffering unheard.

I know of but one thing more that can be said to palliate a proceeding against the charters in this way, which is, *That the provinces always have their respective agents at court, who may be heard by petition before the bill*

bill passes into an act. To which I answer, first, that sometimes they have agents here, and at other times they have not. Next, that a bill may pass into an act without the knowledge of the agents, they having no citation. This had once like to have been the case, when a bill of this nature was formerly brought into the house of Commons, and certainly had proved so, if the agent for New-England had at that nice juncture been indisposed in his health, or but a day's journey out of town, or if he had not been more than ordinary active and diligent when he was in town. And lastly, I must observe that agents are only instructed in things that fall within the ordinary course of business, and when any thing of a new and extraordinary nature is brought on the carpet, they have a general instruction to pray for time, in order to notify their principals, and receive their special commands. Besides, it is well known, that the right hon. the Lords Commissioners for Trade and Plantations were, at the time before mentioned, prepared to urge many complaints both new and old; to which facts it had been impossible for any agent to answer *ore tenus*, without being ever apprized of them. To conclude, what *these governments* desire of their superiors at home is, that they may not be judged and condemned unheard. And I cannot but flatter myself they will obtain it, whether I consider the reasonableness of the demand itself, or the celebrated justice and lenity of his Majesty's government, or the importance of the thing in question to the provinces

provinces concerned. I mention this last particular, being sure they would reckon the loss of their privileges a greater calamity than if their houses were all in flames at once. Nor can they be justly blamed, the one being a reparable evil, but the other irreparable. Burnt houses may rise again out of their ashes, and even more beautiful than before, but 'tis to be feared that liberty *once lost, is lost for ever.*

Thus I have ventured into the world my thoughts on the New-England charters; happy! if my imperfect essay may provoke some learned pen to do full justice to the subject, which yet in the great scarcity of friends that these governments have, seems too much to be expected. In the mean time, being myself a native of one of them, I could not forbear shewing my good-will; for how little soever one is able to write, yet when the liberties of one's country are threatened, it is still more difficult to be silent. The dumb son of Cræsus, when he saw an attempt made on his father's life, broke into sudden speech, by a strong effort of nature. It's a fine passage in Sallust, which I've placed in the title page of this little work. *Pulchrum est patriæ benefacere, etiam benedicere haud absurdum est.* Every man should be ambitious to do his country each of these services, and if I have not been fortunate enough to attain to *either* of them, **THIS** shall be my satisfaction, that I have always aimed and endeavoured at *Both.*

THE
RIGHTS
OF THE

British Colonies

Asserted and proved.

By JAMES OTIS, Esq;

The THIRD EDITION, corrected.

*Hæc omnis regio & celsi plaga pinea montis
Cedat amicitia Teucrorum: & fœderis æquas
Dicamus leges, sociosque in regna vocemus
Consulant, si tantus amor, & mœnia condant.*

VIRG.

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INTRODUCTION.

Of the Origin of Government.

THE origin of *government* has in all ages no less perplexed the heads of lawyers and politicians, than the origin of *evil* has embarrassed divines and philosophers: and 'tis probable the world may receive a satisfactory solution on *both* those points of enquiry at the *same* time.

The various opinions on the origin of *government* have been reduced to four. 1. That dominion is founded in *Grace*. 2. On *force* or meer *power*. 3. On *compact*. 4. On *property*.

The first of these opinions is so absurd, and the world has paid so very dear for embracing it, especially under the administration of the *Roman pontiffs*, that mankind seem at this day to be in a great measure cured of their madness in this particular; and the notion is pretty generally exploded, and hissed off the stage.

To those who lay the foundation of government in *force* and meer *brutal power*, it is objected; that, their system destroys all distinction between right and wrong; that it overturns all morality, and leaves it to every man

to do what is right in his own eyes ; that it leads directly to *scepticism*, and ends in *atheism*. When a man's will and pleasure is his only rule and guide, what safety can there be either for him or against him, but in the point of a sword?

On the other hand the gentlemen in favour of the *original compact* have been often told that *their* system is chimerical and unsupported by reason or experience. Questions like the following have been frequently asked them, and may be again.

“ When and where was the original compact for introducing government into any society, or for creating a society, made? Who were present and parties to such compact? Who acted for infants and women, or who appointed guardians for them; Had these guardians power to bind both infants and women during life, and their posterity after them? Is it in nature or reason that a guardian should by his own act perpetuate his power over his ward, and bind him and his posterity in chains? Is not every man born as free by nature as his father? Has he not the same natural right to think and act and contract for himself? Is it possible for a man to have a natural right to make a slave of himself or of his posterity? Can a father supersede the laws of nature? What man is or ever was born free, if every man is not? What will there be to distinguish the next generation of men from their forefathers, that they should not have the

the same right to make original compacts as their ancestors had? If every man has such right, may there not be as many original compacts as there are men and women born or to be born? Are not women born as free as men? Would it not be infamous to assert that the ladies are all slaves by nature? If every man and woman born or to be born has, and will have, a right to be consulted, and must accede to the original compact before they can with any kind of justice be said to be bound by it, will not the compact be ever forming and never finished, ever making but never done? Can it with propriety be called a compact original or derivative, that is ever in treaty but never concluded?"

When it has been said that each man is bound as soon as he accedes, and that the consent may be either express or tacit, it has been asked, "What is a *tacit* consent or compact? Does it not appear plain that those who refuse their assent cannot be bound? If one is at liberty to accede or not, is he not at liberty to *recede* on the discovery of some intolerable fraud and abuse that has been palmed upon him by the rest of the high-contracting parties? Will not natural equity in several special cases rescind the original compacts of great men, as effectually as those of little men are rendered null and void in the ordinary course of a court of chancery?"

There are other questions which have been started, and a resolution, of them demanded, which

which may perhaps be deemed indecent by those who hold the prerogatives of an earthly monarch, and even the power of a plantation government, so sacred as to think it little less than blasphemy to enquire into their origin and foundation: while the government of the supreme *ruler* of the universe is every day discussed with less ceremony and decency than the administration of a petty German prince. I hope the reader will consider that I am at present only mentioning such questions as have been put, by high-flyers and others in church and state, who would exclude all compact between a sovereign and his people, without offering my own sentiments upon them; this however I presume I may be allowed hereafter to do without offence. Those who want a full answer to them may consult Mr. Locke's discourses on government, M. De Vattel's law of nature and nations, and their own consciences.

“ What state were Great Britain, Ireland, and the Plantations left in by the abdication of James II? Was it a state of nature or of civil government? If a state of civil government, where were the supreme legislative and executive powers from the abdication to the election of *William* and *Mary*? Could the Lords and Commons be called a compleat parliament or supreme power without a King to head them? Did any law of the land or any original compact previous to the abdication provide, that on such an event, the supreme
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power should devolve on the two houses? Were not both houses so manifestly puzzled with the novelty and strangeness of the event, and so far from finding any act of parliament, book-case, or precedent to help them, that they disputed in solemn Conference by what name to call the action, and at last gave it one, as new in our language and in that of parliament as the thing itself was in fact*?"

If on this memorable and very happy event the three kingdoms and the dominions fell back into a state of *nature*, it will be asked, "Whether every man and woman were not then equal? If so, had not every one of them a natural and equitable right to be consulted in the choice of a new king, or in the formation of a new original compact or government, if any new form had been made? Might not the nation at that time have rightfully changed the monarchy into a republic or any form, that might seem best? Could any change from a state of nature take place without universal consent, or at least without the consent of the *majority* of the individuals? Upon the principles of the original compact as commonly ex-

* On King James's leaving the kingdom and *abdication* the government, the lords would have the word *desertion* made use of, but the commons thought it was not comprehensive enough, for that the King might then have liberty of returning. The Scots rightly called it a forfeiture of the crown, and this in plain English is the sense of the term *abdication* as by the convention and every Parliament since applied. See the history and debates of the convention, and the acts then made.

explained and understood, could a few hundred men, who before the dissolution of the government had been called, and in fact were, lords, knights, and gentlemen, have lawfully made that glorious deliverer and defender *W. III.* rightful king?" Such an one he certainly was, and such have been all his illustrious successors to the present happy times; when we have the joy to see the sceptre swayed in justice, wisdom and mercy, by our lawful Sovereign George the Third; a prince who glories in being a Briton born, and whom may God long preserve and prosper.

"If upon the abdication all were reduced to a state of nature, had not apple-women and orange-girls as good a right to give their respective suffrages for a new king as the philosopher, courtier, petit maitre, and politician? Were these and ten millions of others such ever more consulted on that occasion, than the multitude now are in the adjustment of that real modern farce, an election of a king of the Romans; which serves as a contrast to the grandeur of the ancient republics, and shews the littleness of the modern German and some other Gothic constitutions in their present degenerate state?"

"In the election of *W. III.* were the votes of Ireland and the Plantations ever called for or once thought of till the affair was settled? Did the lords and commons who happened to be then in and about Westminster represent, and act, for the individuals, not only of the
three

three kingdoms, but for all the *free-born and as yet unconquered possessors and proprietors of their own money-purchased, blood-purchased plantations, which, till lately, have been defended with little or no assistance from Great-Britain?* Were not those who did not vote in or for the new model at liberty, upon the principles of the compact, to remain in what some call the delectable state of nature, to which by the hypothesis they were reduced, or to join themselves to any other state, whose solemn league and covenant they could subscribe? Is it not a first principle of the original compact, that all who are bound should bind *themselves*? Will not common sense without much learning or study dictate obvious answers to all the above questions?---and, say the opposers of the original compact and of the natural equality and liberty of mankind, will not those answers infallibly shew that the doctrine is a piece of *metaphysical jargon and systematical nonsense*?" Perhaps not.

With regard to the fourth opinion, that *dominion is founded in property*, what is it but playing with words? Dominion in one sense of the term is synonymous with property, so one cannot be called the foundation of the other, but as one *name* may appear to be the foundation or cause of another.

Property cannot be the foundation of dominion as synonymous with government; for on the supposition that property has a precarious

ous existence antecedent to government, and though it is also admitted that the security of property is one end of government, but that of little estimation even in the view of a *miser* when life and liberty of locomotion and further accumulation are placed in competition, it must be a very absurd way of speaking to assert that *one* end of government is the foundation of government. If the ends of government are to be considered as its foundation, it cannot with truth or propriety be said that government is founded on any *one* of those ends ; and therefore government is not founded on property or its security *alone*, but at least on something else in conjunction. It is however true in fact and *experience*, as the great, the incomparable *Harrington* has most abundantly demonstrated in his *Oceana*, and other divine writings, that Empire follows the balance of *property* : it is also certain that *property* in fact generally *confers* power, though the possessor of it may not have much more wit than a mole or a musquash : and this is too often the cause, that riches are sought after, without the least concern about the right application of them. But is the fault in the riches, or the general law of nature, or the unworthy possessor ? It will never follow from all this, that government is *rightfully* founded on *property*, alone. What shall we say then ? Is not government founded on *grace* ? No. Nor on *force* ? No. Nor on *compact* ? Nor *property* ? Not altogether on either.

Has

Has it *any* solid foundation ? any chief corner stone, but what accident, chance or confusion may lay one moment and destroy the next ? I think it has an everlasting foundation in the *unchangeable will of God*, the author of nature, whose laws never vary. The same omniscient, omnipotent, infinitely good and gracious Creator of the universe, who has been pleased to make it necessary that what we call matter should *gravitate*, for the celestial bodies to roll round their axis, dance their orbits, and perform their various revolutions in that beautiful order and concert, which we all admire, has made it *equally* necessary that from *Adam and Eve* to these degenerate days, the different sexes should sweetly *attract* each other, from societies of *single* families, of which *larger* bodies and communities are as naturally, mechanically, and necessarily combined, as the dew of Heaven and the soft distilling rain is collected by the all-enlivening heat of the sun. *Government* is therefore most evidently founded *on the necessities of our nature*. It is by no means an *arbitrary* thing, depending merely on *compact* or *human will* for its existence.

We come into the world forlorn and helpless ; and if left alone and to ourselves at any one period of our lives, we should soon die in want, despair or distraction. So kind is that hand, tho' little known or regarded, which feeds the rich and the poor, the blind and the naked ; and provides for the safety of infants

by the principle of parental love, and for that of men by Government ! We have a King, who neither slumbers nor sleeps, but eternally watches for our good ; whose rain falls on the just and on the unjust : yet while they live, move, and have their being in him, and cannot account for either, or for any thing else, so stupid and wicked are some men, as to deny his existence, blaspheme his most evident government, and disgrace their nature.

Let no Man think I am about to commence advocate for *despotism*, because I affirm that government is founded on the necessity of our natures ; and that an original supreme Sovereign, absolute, and uncontrollable, *earthly* power *must* exist in and preside over every society ; from whose final decisions there can be no appeal but directly to Heaven. It is therefore *originally* and *ultimately* in the people. I say this supreme absolute power is *originally* and *ultimately* in the people ; and they never did in fact *freely*, nor can they *rightfully* make an absolute, unlimited renunciation of this divine right*. It is ever in the nature of the thing given in *trust*, and on a condition, the performance of which no mortal can dispence with ; namely, that the person or persons on whom

* The power of God Almighty is the only power that can properly and strictly be called supreme and absolute. In the order of nature immediately under him, comes the power of a simple *democracy*, or the power of the whole over the whole. Subsequent to both these are all other political powers, from that of the French Monarque, to a pretty constable.

whom the sovereignty is conferred by the people, shall *incessantly* consult *their* good. Tyranny of all kinds is to be abhorred, whether it be in the hands of one, or of the few, or of the many.---And though “in the last age a generation of men sprung up that would flatter Princes with an opinion that *they* have a *divine right* to absolute power;” yet “flattery is so vile and miserable an estate of man, and so directly opposite to the generous temper and courage of our nation, that it is hard to be conceived that an *Englishman*, much less a *gentleman*, should plead for it*.” Especially at a time when the finest writers of the most polite nations on the continent of *Europe*, are enraptured with the beauties of the civil constitution of *Great Britain*; and envy her, no less for the *freedom* of her sons, than for her immense *wealth* and *military* glory.

But let the *origin* of government be placed where it may, the *end* of it is manifestly the good of *the whole*. *Salus populi suprema lex esto*, is of the law of nature, and part of that grand charter given the human race (though too many of them are afraid to assert it) by the only monarch in the universe, who has a clear and indisputable right to *absolute* power; because he is the *only ONE* who is *omniscient* as well as *omnipotent*.

It is evidently contrary to the first principles of reason, that supreme *unlimited* power should be in the hands of *one* man. It is the greatest
“ *idolatry*”

* Mr. Locke.

“ idolatry, begotten by *flattery*, on the body of *pride*,” that could induce one to think that a *single mortal* should be able to hold so great a power, if ever so well inclined. Hence the origin of *deifying* princes: it was from the trick of gulling the vulgar into a belief that their tyrants were *omniscient*; and that it was therefore right, that they should be considered as *omnipotent*. Hence the *Dii majorum & minorum gentium*; the great, the monarchical, the little, Provincial subordinate and subaltern gods, demi-gods, and semidemi-gods, ancient and modern. Thus deities of all kinds were multiplied and increased in *abundance*; for every devil incarnate, who could enslave a people, acquired a title to *divinity*; and thus the “rabble of the skies” was made up of locusts and caterpillars; lions, tygers, and harpies; and other devourers translated from plaguing the earth*!

The *end* of government being the *good* of mankind, points out its great duties; it is above all things to provide for the security, the quiet, and happy enjoyment of life, liberty, and property. There is no one act which a government can have a *right* to make, that does not tend to the advancement of the security, tranquility and prosperity of the people. If life, liberty and property could be enjoyed

in

* Kingcraft and Priestcraft have fell out so often, that it is a wonder this grand and ancient alliance is not broken off for ever. Happy for mankind will it be, when such a separation shall take place.

in as great perfection in *solitude*, as in *society*, there would be no need of government. But the experience of ages has proved that such is the nature of man, a weak, imperfect being; that the valuable ends of life cannot be obtained, without the union and assistance of many. Hence it is clear that men cannot live apart or independent of each other: in solitude men would perish; and yet they cannot live together without contests. These contests require some arbitrator to determine them. The necessity of a common, indifferent and impartial judge, makes all men seek one; though few find him in the *sovereign power*, of their respective states, or any where else in *subordination* to it.

Government is founded *immediately* on the necessities of human nature, and *ultimately* on the will of God, the author of nature; who has not left it to men in general to chuse, whether they will be members of society or not, but at the hazard of their senses if not of their lives. Yet it is left to every man as he comes of age to chuse *what society* he will continue to belong to. Nay, if one has a mind to turn *hermit*, and after he has been born, nursed, and brought up in the arms of society, and acquired the habits and passions of social life, is willing to run the risque of starving alone, which is generally most unavoidable in a state of hermitage, who shall hinder him? I know of no human law, founded on the law of *nature*, to restrain him
from

from separating himself from all the species, if he can find it in his heart to leave them ; unless it should be said, it is against the great law of *self-preservation* : But of this every man will think himself *his own judge*.

The few *hermits* and *Misanthropes* that ever existed, shew that those states are unnatural. If we were to take out from them those who have made great *worldly* gain of their *godly* hermitage, and those who have been under the madness of *enthusiasm*, or *disappointed* hopes in their *ambitious* projects, for the detriment of mankind, perhaps there might not be left ten from *Adam* to this day.

The form of government is by *nature* and by *right* so far left to the *individuals* of each society, that they may alter it from a simple democracy, or government of all over all, to any other form they please. Such alteration may and ought to be made by express compact : But how seldom this right has been asserted, history will abundantly shew. For once that it has been fairly settled by compact ; *fraud*, *force* or *accident* have determined it an hundred times. As the people have gained upon tyrants, these have been obliged to relax, *only* till a fairer opportunity has put it in their power to encroach again.

But if every prince since *Nimrod* had been a tyrant, it would not prove a *right* to tyrannize. There can be no prescription old enough to supersede the law of nature, and the grant of God Almighty ; who has given
to

to all men a natural right to be *free*, and they have it ordinarily in their power to make themselves so, if they please.

Government having been proved to be necessary by the law of nature, it makes no difference in the thing to call it from a certain period, *civil*. This term can only relate to form, to additions to, or deviations from, the substance of government: This being founded in nature, the superstructures and the whole administration should be conformed to the law of universal reason. A supreme legislative and a supreme executive power, must be placed *somewhere* in every commonwealth: Where there is no other positive provision or compact to the contrary, those powers remain in the *whole body of the people*. It is also evident there can be but *one* best way of depositing those powers; but what that way is, mankind have been disputing in peace and in war more than five thousand years. If we could suppose the individuals of a community met to deliberate, whether it were best to keep those powers in *their own* hands, or dispose of them in *trust*, the following questions would occur—Whether those two great powers of *Legislation* and *Execution* should remain united? If so, whether in the hands of the many, or jointly or severally in the hands of a few, or jointly in some one individual? If both those powers are retained in the hands of the many, where nature seems to have

D placed

placed them originally, the government is a simple *democracy*, or a government of all over all. This can be administered, only by establishing it as a first principle, that the votes of the majority shall be taken as the voice of the whole. If those powers are lodged in the hands of a few, the government is *Aristocracy* or *Oligarchy** Here too the first principles of a practicable administration is, that the majority rules the whole. If those great powers are both lodged in the hands of one man, the government is a *simple Monarchy*, commonly, though falsely called *absolute*, if by that term is meant a right to do as one pleases.---*Sic volo, sic jubeo, stet pro ratione voluntas*, belongs not of right to any mortal man.

The same law of nature and of reason is equally obligatory on a *democracy*, an *aristocracy*, and a *monarchy*: Whenever the administrators, in any of those forms, deviate from truth, justice and equity, they verge towards tyranny, and are to be opposed; and if they prove incorrigible, they will be deposed by the people, if the people are not rendered too abject. Deposing the administrators of a *simple democracy* may sound oddly, but it is done every day, and in almost every vote. A, B, and C, for example, make a *democracy*; to day A and B are for so vile a measure as a stand-

* For the sake of the unlettered reader it is noted, that Monarchy means the power of one great man; Aristocracy and Oligarchy that of a few; and Democracy that of all men.

standing army; to morrow B and C vote it out. This is as really deposing the former administrators, as setting up and making a new king is deposing the old one. *Democracy* in the one case, and *monarchy* in the other, still remain; all that is done is to change the administration.

The first principle and great end of government being to provide for the best good of all the people, this can be done only by a supreme legislative and executive ultimately in the people, or whole community, where God has placed it; but the inconveniencies, not to say impossibility, attending the consultations and operations of a large body of people, have made it necessary to transfer the power of the whole to a *few*: This necessity gave rise to deputation, proxy, or a right of representation.

A Power of legislation, without a power of execution in the same or other hands, would be futile and vain: On the other hand, a power of execution, supreme or subordinate, without an *independent* legislature, would be perfect despotism.

The difficulties attending an universal congress, especially when society became large, have brought men to consent to a delegation of the power of all: The weak and the wicked have too often been found in the same interest; and in most nations have not only brought these powers *jointly* into the hands of one, or some few, of their number; but

made them *hereditary*, in the families of despotic nobles and princes.

The wiser and more virtuous states, have always provided that the representation of the people should be *numerous*. Nothing but life and liberty are *naturally* hereditary: This has never been considered by those, who have *tamely* given up both into the hands of a tyrannical Oligarchy or despotic Monarchy.

The analogy between the natural, or material, as it is called, and the moral world, is very obvious; God himself appears to us at some times to cause the intervention or combination of a *number* of simple principles, though never when *one* will answer the end; gravitation and attraction have place in the revolution of the planets, because the one would fix them to a centre, and the other would carry them off indefinitely; so in the moral world, the first simple principle is *equality* and the power of the whole. This will answer in small numbers; so will a tolerably virtuous *Oligarchy* or a *Monarchy*. But when the society grows in bulk, none of them will answer well *singly*, and none worse than absolute monarchy. It becomes necessary therefore as numbers increase, to have those several powers properly combined; so as form the whole to produce that harmony of government so often talked of and wished for, but too seldom found in ancient or modern states. The grand political problem in all ages has been to invent the best combination or distribution

bution of the supreme powers of legislation and execution. Those states have ever made the greatest figure, and have been most durable, in which those powers have not only been separated from each other, but placed each in more hands than one, or a few. The *Romans* are the most shining example; but they never had a balance between the senate and the people; and the want of this, is generally agreed by the few who know any thing of the matter, to have been the cause of their fall. The *British* constitution in theory and in the present administration of it, in general comes nearest the idea of perfection, of any that has been reduced to practice; and if the principles of it are adhered to, it will, according to the infallible prediction of *Harrington*, always keep the *Britons* uppermost in *Europe*, 'till their *only* rival nation shall either embrace that perfect model of a commonwealth given us by that author, or come as near it as *Great-Britain* is. Then indeed, and not till then, will that rival and our nation either be eternal confederates, or contend in greater earnest than they have ever yet done, till one of them shall sink under the power of the other, and rise no more.

Great Britain has at present, most evidently the advantage, and such opportunities of honest wealth and grandeur, as perhaps no state ever had before, at least not since the days of *Julius Cæsar*, the destroyer of the Roman glory and grandeur, at a time when but

but for him and his adherents both might have been rendered immortal.

We have said that the form and mode of government is to be settled by *compact*, as it was rightfully done by the convention after the abdication of *James II.* and assented to by the first representative of the nation chosen afterwards, and by every parliament, and by almost every man ever since, but the bigots to the indefeasible power of tyrants civil and ecclesiastic. There was neither time for, nor occasion to call the whole people together: if they had not liked the proceedings it was in their power to controul them; as it would be should the supreme legislative or executive powers ever again attempt to enslave them. The people will bear a great deal, before they will even murmur against their rulers: but when once they are thoroughly roused, and in earnest, against those who would be glad to enslave them, their power is *irresistible**.

At the abdication of King *James*, every step was taken that natural justice and equity could require; and all was done that was possible, at least in the wretched state in which he left the nation. Those very noble and worthy patriots, the lords spiritual and temporal of that day, and the principal persons of the commons, advised the prince, who in consequence thereof caused letters to be "written to the lords spiritual and temporal, being protestants, and other letters to the several coun-

* See Mr. Locke on the Dissolution of Government.

counties, cities, universities, boroughs and cinque-ports, for the chusing such persons to represent them as were of right to be sent to parliament, to meet at Westminster upon the 22d of January 1688, in order to such an establishment, as that their religion, laws and liberties might not again be in danger of being subverted." See *W. & M. sess. 1 C. 1.*

Upon this, elections were made and thereupon the said lords spiritual and temporal and commons met, and proceeded to assert their rights and liberties, and to the election of the Prince and Princess of Orange to be King and Queen of England, France and Ireland, and the dominions thereto belonging. The kingdom of Scotland agreed in the same choice: These proceedings were drawn into the form of acts of parliament, and are the basis of the acts of union and succession since made, and which altogether are the sure foundation of that indisputable right which his present Majesty has to the Crown of *Great Britain* and the dominions thereto belonging; which right it is the greatest folly to doubt of, as well as the blackest treason to deny. The present establishment founded on the law of God, and of nature, was began by the convention, with a professed and real view, in all parts of the *British* empire, to put the liberties of the people out of the reach of arbitrary power in all times to come.

But the grandeur, as well as justice, equity and goodness of the proceedings of the nation
on

on that memorable occasion, never have been nor can be so well represented as in the words of those great men who composed the convention? for which reason partly, but principally because they shew the rights of all British subjects, both at home and abroad, and should therefore be in as many hands as possible, I have transcribed the following clauses.

1. *W. & M. sess. 1. chap. 1. preamble and sec. 1. entitled---*

“ An act for removing and preventing all questions and disputes concerning the assembling and sitting of this present parliament.

For preventing all doubts and scruples which may in any wise arise concerning the meeting, sitting and proceeding of this present parliament; be it declared and enacted by the King's and Queen's most excellent Majesties, by and with the advice and consent of the lords spiritual and temporal, and commons, now assembled, and by authority of the same.

Idly. That the lords spiritual and temporal, and commons, convened at Westminster, the two and twentieth day of January A. D. 1688, and there sitting the 13th of February following, are the two houses of parliament, and so shall be and are hereby declared, enacted and adjudged to be, to all intents, constructions, and purposes whatsoever, notwithstanding any want of writ or writs of summons, or any other defect of form or default whatsoever, as if they had been summoned according to the usual form.

1 of *W. & M.* sess. 2. chap. 2. sec. 3, 4, 5, 6, 11, 12.

An act declaring the rights and liberties of the subject, and settling the succession of the Crown.

Whereas the lords spiritual and temporal, and commons, assembled at Westminster, lawfully, fully and freely representing all the estates of the people of this realm, did upon the 13th of February A. D. 1688, present unto their Majesties, then called and known by the names and stile of *William* and *Mary*, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing, made by the said lords and commons in the words following, *viz.*

Whereas the late King James the second, by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the protestant religion, and the laws and liberties of this kingdom.

1. By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament.

2. By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power.

3. By issuing and causing to be executed a commission under the great seal for erecting a

E. court

court, called, The court of commissioners for ecclesiastical causes.

4. For levying money for and to the use of the crown, by pretence of prerogative, for other time, and in other manner, than the same was granted by parliament.

5. By raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering soldiers contrary to law.

6. By causing several good subjects, being protestants, to be disarmed, at the same time when papists were both armed and employed, contrary to law.

7. By violating the freedom of election of members to serve in parliament.

8. By prosecutions in the court of King's Bench, for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses.

9. And whereas of late years, partial, corrupt and unqualified persons, have been returned and served on juries in trials, and particularly divers jurors in trials, for high treason, which were not freeholders.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

11. And excessive fines have been imposed; and illegal and cruel punishments inflicted.

12. And several grants and promises made of fines and forfeitures, before any conviction

or

or judgment against the persons, upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm——

And whereas the said late King James the second having abdicated the Government, and the throne being thereby vacant, his highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords spiritual and temporal, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being protestants, and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the chusing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster upon the two and twentieth of January in this year 1688; in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted. Upon which letters, elections having been accordingly made :

And thereupon the said lords spiritual and temporal and commons, pursuant to their respective letters and elections, being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid; do in the first place (as their ances-

tors in like case have usually done) for the vindicating and asserting their antient rights and liberties, declare,

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for creating the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the use of the crown, by pretence of prerogative, without grant of parliament, for longer time, or in other manner, than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the King; and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law.

7. That the subjects which are protestants, may have arms for their defence, suitable to their conditions, and as allowed by law.

8. That election of members of parliament ought to be free.

9. That the freedom of speech, and debates, or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

10. That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

11. That jurors ought to be duly impannelled and returned; and jurors which pass upon mens trials for high treason, ought to be freeholders.

12. That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings, or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example:

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein——

Having therefore an entire confidence, that his said Highness the Prince of Orange, will perfect the deliverance so far advanced by him,
and

and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights and liberties.

II. The said Lords spiritual and temporal, and commons assembled at Westminster, do resolve that *William* and *Mary* Prince and Princess of Orange be, and be declared, King and Queen of England, France and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said Prince and Princess, during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said Princess; and for default of such issue, to the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of the said Prince of Orange. And the Lords spiritual and temporal, and commons, do pray the said Prince and Princess to accept the same accordingly.

IV. Upon which their said Majesties did accept the crown and royal dignity of the kingdom of England, France and Ireland, and the dominions thereunto belonging, according to the resolutions and desire of the said lords

lords and commons, contained in the said declaration.

V. And thereupon their Majesties were pleased, that the said lords spiritual and temporal, and commons, being the two houses of Parliament, should continue to sit, and with their Majesties royal concurrence, make effectual provision for the settlement of the religion, laws and liberties of this Kingdom; so that the same for the future might not be in danger again of being subverted; to which the said lords spiritual and temporal, and commons did agree and proceed to act accordingly.

VI. Now in pursuance of the premises, the said lords spiritual and temporal and commons, in parliament assembled, for the ratifying, confirming and establishing the said declaration, and the articles, clauses, matters and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient and indubitable rights and liberties of the People of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be; and that all and every the particulars aforesaid, shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Majesties and their
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successors according to the same in all times to come.

XI. All which their Majesties are contented and pleased shall be declared, enacted, and established by authority of this present parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said Majesties, by and with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

XII. And be it further declared and enacted by the authority aforesaid, that from and after this present session of parliament, no dispensation by *non obstante* of or to any statute or any part thereof, shall be allowed; but that the same shall be held void and of no effect, except a dispensation be allowed in such statutes, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament.

12 & 13 of *William III.* chap. 2. sec. 3 & 4.

“ Whereas it is necessary that further provision be made for securing our religion, laws and liberties, after the death of his Majesty and the Princess Anne of Denmark, and in default of issue of the body of the said Princess, and of his Majesty respectively; it is enacted,

That after the said limitation shall take effect, judges commissions be made *quamdiu*

diu se bene gesserint, and their salaries ascertained and established ; but upon the address of both houses of parliament, it may be lawful to remove them ;

That no pardon under the great seal of England be pleaded to an impeachment by the commons in parliament.

Whereas the laws of England are the birth-right of the people thereof, and all the Kings and Queens, who shall ascend the throne of this realm, ought to administer the government of the same according to the said laws, and all their officers and ministers ought to serve them according to the same ; all the laws and statutes of this realm for securing the established religion, and the rights and liberties of the people, and all other laws and statutes now in force, are by his majesty, with the advice and consent of the lords spiritual and temporal, and commons, ratified and confirmed."

I shall close this introduction with a passage from Mr. Locke.

" Though, says he, in a constituted common-wealth, standing upon its own basis, and acting according to its own nature, that is, acting for the preservation of the community, there can be but one supreme power which is the legislative, to which all the rest are and must be subordinate ; yet the legislative being only a fiduciary power, to act for certain ends, there remains still, "*in the people, a supreme power to remove, or alter, the legislative when*

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they

(*they find the legislative act contrary to the trust reposed in them.*) For all power given, with trust for the attaining an end, being limited by that end, whenever that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and the power devolve into the hands of those who gave it, who may place it anew where they shall think best, for their safety and security. And thus the *community* perpetually retains a supreme power of saving themselves from the attempts and designs of any body, even of their legislators whenever they shall be so foolish, or so wicked, as to lay and carry on designs against the liberties and properties of the subject. For no man, or society of men, having a power to deliver up their preservation, or consequently the means of it, to the absolute will and arbitrary dominion of another; whenever any one shall go about to bring them into such a slavish condition, they will always have right to preserve what they have not a power to part with; and to *rid* themselves of *those* who invade this fundamental, sacred and unalterable law of self-preservation, for which they entered into the society.

And thus the community may be said in this respect to be always the supreme power, but not as considered under any form of government, because this power of the people, can never take place, till the government be dissolved." Locke on Government, B. II. C. 13.

This

This he says may be done, "from without by conquest; from within, 1st. When the legislative is altered. Which is often by the prince, but sometimes by the whole legislative. As by invading the *property* of the subject, and making themselves arbitrary disposers of the lives, liberties and fortunes of the people; reducing them to slavery under arbitrary power, they put themselves under a state of war with the people, who are thereupon absolved from any further obedience, and are left to the common refuge which God hath provided for all men, against force and violence. Whensoever therefore, the legislative shall transgress this fundamental rule of society; and either by ambition, fear, folly or corruption, endeavour to gain themselves, or put into the hands of any other an absolute power over the lives, liberties and estates of the people, by this breach of trust, they forfeit the power the *people* had put into their hands for quite contrary ends, and it devolves to the *people*, who has a right to *resume* their original liberty, and by the establishment of a *new* legislative (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society."

Idem, Chap. 9.

Of Colonies in general.

THIS subject has never been very clearly and fully handled by any modern

writer, that I have had the good fortune to meet with ; and to do it justice, would require much greater abilities than I pretend to, and more leisure than I ever expect will fall to my share. Even the *English* writers and lawyers, have either intirely waved any consideration of the nature of *Colonies*, or very lightly touched upon it, for the people of England never discovered much concern for the prosperity of the *Colonies*, till the revolution ; and even now some of their great men and writers, by their discourses of, and conduct towards them, consider them all rather as a parcel of *little insignificant conquered islands*, than as a very extensive settlement on the continent. Even their law-books and very dictionaries of law, in editions so late as 1750, speak of the *British* plantations abroad as consisting chiefly of islands ; and they are reckoned up in some of them in this order—*Jamaica, Barbadoes, Virginia, Maryland, New-England, New-York, Carolina, Bermudas*. At the head of all these *Islands* (for there is no distinction made) stands *Jamaica*, in truth a *conquered* island ; and as such, this and all the other little West-India islands deserve to be treated, for the conduct of their inhabitants and proprietors with regard to the Northern Colonies : divers of these colonies are larger than all those islands together ; and are well settled, not as the common people of *England* foolishly imagine, with a compound mongrel mixture of *English, Indian* and *Negro*, but with freeborn *British*
white

white subjects, whose loyalty has never yet been suspected.

There is a man now living, or but lately dead, who once was a secretary of state; during whose *wonderful* conduct of national affairs, without knowing whether *Jamaica* lay in the Mediterranean, the Baltic, or in the Moon, letters were often received, directed to the Governor of the *island* of New-England. Which *island* of New-England is a part of the *continent* of North-America, comprehending two provinces and two colonies; and according to the *undoubted* bounds of their charters, containing more land than there is in the three kingdoms. But I must confine myself to matters of more importance than detecting the geographical blunders, or refuting the errors of dead, superannuated or otherwise stupified secretaries of state, who are now all out of place.

If I were to define the *modern* Colonists, I should say, *they are the noble discoverers and settlers of a new world*; from whence, as from an endless source, *wealth* and *plenty*, the means of *power*, *grandeur* and *glory*, in a degree unknown to the hungry chiefs of former ages, have been powering into *Europe* for 300 years past: In return for which, those Colonists have received from the several states of *Europe*, except from *Great-Britain*, only since the revolution, nothing but ill-usage, slavery and chains, as fast as the riches of *their own* earning could furnish the means of forging them.

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A plantation or colony, is a settlement of subjects in a territory *disjointed* or *remote* from the mother country, and may be made by private adventurers or the public; but in both cases the Colonists are intitled to as *ample* rights, liberties and privileges as the subjects of the mother country are, and in some respects *to more*.

Of the natural Rights of Colonists.

THOSE who expect to find any thing very satisfactory on this subject in particular, or with regard to the law of nature in general, in the writings of such authors as *Grotius* and *Pufendorf*, will find themselves much mistaken. It is their constant practice to establish the matter of right on the matter of *fact*: This the celebrated *Rousseau* expressly says of *Grotius*, and with the same reason he might have added an hundred others. “The learned researches into the laws of nature and nations are often nothing more than the history of ancient abuses, so that it is a ridiculous infatuation to be too fond of straying them.*” “This was exactly the case with *Grotius*.†” The sentiments on this subject have therefore been chiefly drawn from the purer fountains of one or two of our *English* writers, particularly from Mr. *Locke*, to whom might be added a few of other nations; for I have seen but a few of any country, and of all I have seen, there

* Marquis D'A. † Rousseau.

there are not ten worth reading. *Grotius*, B. 3. C. 1. sec. 21. discoursing of confederates on unequal terms, according to his manner, says, "to the inequality in question may be referred some of those rights which are now called right of protection, right of patronage, and a right termed *mundiburgium*; as also that which mother cities had over their colonies among the Grecians. For as *Thucydides* says, those colonies enjoyed the same rights of liberty with the other cities, but they owed a reverence to the city whence they derived their origin, and were obliged to render her respect and certain expressions of honour, so long as the colony was well treated."

Grotius de jure belli, &c. B. 1. C. 3. 21.

"Hitherto also (says he) may be referred that separation which is made when people by one consent, go to form colonies. For this is the original of a new and independent state. They are not content to be slaves, but to enjoy equal privileges and freedom, says *Thucydides*. And King *Tullius*, in *Dion. Hal.* says, we look upon it to be neither truth nor justice, that mother cities ought of necessity and by the law of nature to rule over their colonies."

B. 2. C. 9. sec. 10.

"Colonies, says *Pufendorf*, are settled in different methods. For either the colony continues a part of the common-wealth it was sent out from, or else is obliged to pay a dutiful respect to the mother common-wealth, and to be in readiness to defend and vindicate
its

its honour, and so is united to it by a sort of unequal confederacy; or lastly, is erected into a separate common-wealth, and assumes the same rights with the state it is descended from."——Pufend. B. 8. C. 11. 6.

"Different common-wealths may be formed out of one by common consent, by sending out colonies in the manner usual in old Greece. For the Romans afterwards, when they sent a colony abroad, continued it under the jurisdiction of the mother common-wealth, or greater country. But the colonies planted by the Greeks, and after their method, constituted particular common-wealths, which were obliged only to pay a kind of deference and dutiful submission to the mother common-wealth."——Pufend. B. 8 C. 12. sec. 5.

From which passages it is manifest that these two great men only state facts, and the opinions of others, without giving their own upon the subject: And all that can be collected from those facts or opinions, is, that Greece was more generous, and a better mother to her colonies than Rome. The conduct of Rome towards her colonies, and the corruptions and oppressions tolerated in her provincial officers of all denominations, was one great cause of the downfall of that proud republic.

Dr. Strahan says, "there is a great affinity between the British colonies and those of the Spaniards and other nations, who have made settlements among the Indians in those parts: For

For the grants made by our Kings of tracts of lands in that country, for the planting of colonies, and making settlements therein, appear to have been made in imitation of grants made by the Kings of Spain to the proprietors of lands in the Spanish colonies, upon the very same conditions, and in consideration of the same services to be performed by the grantees. So that the *government* of the Spanish colonies and the rights of the proprietors of lands therein, depending chiefly on the rules of civil and feudal law, as may be seen by the learned treatise of Solorzanus, *de indiarum jure*, the knowledge of the same laws must be of service likewise for determining any controversy that may arise touching the duties or forfeitures of the proprietors of lands in our English colonies.——Pref. to translat. of Domat.

With submission to so great an authority as Dr. Strahan, it is humbly hoped that the British colonists do not hold their lands as well as liberties by so slippery a tenure as do the Spaniards and French. The will of the Prince is the only tenure by which *they* hold; and the government of the Spanish and French settlements is in every respect despotic.

It is well known that the first American grants were by the Bulls of the Popes. The Roman Pontiffs had for ages usurped the most abominable power over princes: They granted away the kingdoms of the earth with as little ceremony as a man would lease a sheep-cot. Now according to Dr. Strahan's logic, it may be inferred, that the canon law and the Popes
G Bulls,

Bulls, must be of *service likewise, for determining any controversy that may arise, touching the duties or forfeitures of the proprietors of lands in the British colonies.* And indeed it must be owned, if we were to judge of some late proceedings* by this rule, we must allow that they favour more of modern Rome and the Inquisition, than of the common law of England and the constitution of Great-Britain.

In order to form an idea of the natural rights of the Colonists, I presume it will be granted that they are men, the common children of the same Creator with their brethren of Great-Britain. Nature has placed all such in a state of equality and perfect freedom, to act within the bounds of the laws of nature and reason, without consulting the will or regarding the humour, the passions or whims of any other man, unless they are formed into a society or body politic. This it must be confessed is rather an abstract way of considering men than agreeable to the real and general course of nature. The truth is, as has been shewn, men came into the world and into society at the same instant. But this hinders not but that the natural and original rights of each individual may be illustrated and explained in this way better than in any other. We see here by the way a probability, that this abstract consideration of men, which has its use in reasoning on the principles of government, has insensibly led some of the greatest
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* Of some American Courts of Admiralty, if the Reader pleases.

men to imagine, some real general state of nature, agreeable to this abstract conception, antecedent to and independent of society. This is certainly not the case in general, for most men become members of society from their birth, though separate independent states are really in the condition of perfect freedom and equality with regard to each other; and so are any number of individuals who separate themselves from a society of which they have formerly been members, for ill treatment, or other good cause, with express design to found another. If in such case, there is a real interval, between the separation and the new conjunction, during such interval, the individuals are as much detached, and under the law of nature only, as would be two men who should chance to meet on a desolate island.

The Colonists are by the law of nature free born, as indeed all men are, white or black. No better reasons can be given, for enslaving those of any colour, than such as baron Montesquieu has humourously given, as the foundation of that cruel slavery exercised over the poor Ethiopians; which threatens one day to reduce both Europe and America to the ignorance and barbarity of the darkest ages. Does it follow that it is right to enslave a man because he is black? Will short curled hair, like wool, instead of Christian hair, as it is called by those whose hearts are as hard as the ne-
 ther millstone, help the argument? Can any logical inference in favour of slavery, be drawn from a flat nose, a long or a short face? No-

thing better can be said in favour of a trade, that is the most shocking violation of the law of nature, has a direct tendency to diminish the idea of the inestimable value of liberty, and makes every dealer in it a tyrant, from the director of an African company to the petty chapman in needles and pins on the unhappy coast. It is a clear truth, that those who every day barter away other mens liberty, will soon care little for their own. To this cause must be imputed that ferocity, cruelty, and brutal barbarity that has long marked the general character of the sugar-isllanders. They can in general form no idea of government but that which in person, or by an overseer, the joint and several proper representative of a Creole*, and of the D—l, is exercised over ten thousands of their fellow men, born with the same right to freedom, and the sweet enjoyments of liberty and life, as their unrelenting task-masters, the overseers and planters.

Is it to be wondered at, if, when people of the stamp of a Creolian planter get into power, they will not stick for a little present gain, at making their own posterity, white as well as black, worse slaves if possible than those already mentioned.

There is nothing more evident, says Mr. Locke, than “that creatures of the same species

* Those in England who borrow the terms of the Spaniards, as well as their notions of government, apply this term to all Americans of European Extract; but the Northern colonists apply it only to the Islanders and others of such extract, under the Torrid Zone.

cies and rank, promiscuously born to all the same advantages of nature and the use of the same faculties, should also be equal one among another, without subordination and subjection, unless the master of them all should by any manifest declaration of his will set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty." "The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but only to have the law of nature for his rule." This is the liberty of independent states; this is the liberty of every man out of society, and who has a mind to live so; which liberty is only abridged in certain instances, not lost to those who are born in or voluntarily enter into society; this gift of God cannot be annihilated.

The Colonists being men, have a right to be considered as equally entitled to all the rights of nature with the Europeans, and they are not to be restrained, in the exercise of any of these rights, but for the evident good of the whole community.

By being or becoming members of society, they have not renounced their natural liberty in any greater degree than other good citizens, and if it is taken from them without their consent they are so far enslaved.

They have an undoubted right to expect, that their best good will ever be consulted by their rulers, supreme and subordinate, without any partial views confined to the particular

interest of one island or another. Neither the riches of Jamaica, nor the luxury of a metropolis, should ever have weight enough to break the balance of truth and justice. Truth and faith belong to men as men, from men, and if they are disappointed in their just expectations of them in one society, they will at least wish for them in another. If the love of truth and justice, the only spring of sound policy in any state, is not strong enough to prevent certain causes from taking place, the arts of fraud and force will not prevent the most fatal effects.

In the long run, those who fall on arbitrary measures, will meet with their deserved fate. The law of nature was not of man's making, nor is it in his power to mend it, or alter its course. He can only perform and keep, or disobey and break it. The last is never done with impunity, even in this life, if it is any punishment for a man to feel himself depraved; to find himself degraded by his own folly and wickedness from the rank of a virtuous and good *man*, to that of a brute; or to be transformed from the friend, perhaps father of his country, to a devouring Lyon or Tyger.

The unhappy revolutions which for ages have distressed the human race, have been all owing to the want of a little wisdom, common sense and integrity, in the administration of those, whom by their stations God had in kindness to the world, rendered able to do a great deal, for the benefit of mankind, with the

the exertion of a small portion of private and public virtue.

Of the Political and Civil Rights of the British Colonists.

HERE indeed opens to view a large field; but I must study brevity—Few people have extended their enquiry after the foundation of any of their rights, beyond a charter from the crown. There are others who think when they have got back to old *Magna Charta*, that they are at the beginning of all things. They imagine themselves on the borders of Chaos (and so indeed in some respects they are) and see creation rising out of the unformed mass, or from nothing. Hence, say they, spring all the rights of men and of citizens.—But liberty was better understood, and more fully enjoyed by our ancestors, before the coming in of the first Norman Tyrants, than ever after, till it was found necessary, for the salvation of the kingdom, to combat the arbitrary and wicked proceedings of the Stuarts.

The present happy and most righteous establishment is justly built on the ruins, which those Princes brought on their family; and two of them on their own heads—The last of the name sacrificed three of the finest kingdoms in Europe, to the councils of bigotted old women, priests, and more weak and wicked ministers of state: he afterward went a grazing in the fields of St. Germain, and there died in disgrace and poverty, a terrible example

example of God's vengeance on arbitrary princes!

The delivrance under God wrought by the prince of Orange, afterwards deservedly made King William III. was as joyful an event to the colonies as to Great-Britain; in some of them, steps were taken in his favour as soon as in England.

They all immediately acknowledged King William and Queen Mary as their lawful Sovereign. And such has been the zeal and loyalty of the colonies ever since for that establishment, and for the protestant succession in his present Majesty's illustrious family, that I believe there is not one man in an hundred (except in Canada) who does not think himself under the best national civil constitution in the world.

Their loyalty has been abundantly proved, especially in the late war. Their affection and reverence for their mother country is unquestionable. They yield the most chearful and ready obedience to her laws, particularly to the power of that august body the parliament of Great-Britain, the supreme legislative of the kingdom and its dominions. These I declare are my own sentiments of duty and loyalty. I also hold it clear that the act of Queen Anne, which makes it high treason to deny "that the King with and by the authority of parliament, is able to make laws and statutes of sufficient force and validity to *limit* and *bind* the crown, and the descent, limitation, inheritance and *government* thereof," is founded

founded on the principles of liberty and the British constitution: and he that would palm the doctrine of unlimited passive obedience and non-resistance upon mankind, and thereby or by any other means serve the cause of the Pretender, is not only a fool and a knave, but a rebel against common sense, as well as the laws of God, of Nature, and his Country.

☞ I also lay it down as one of the first principles from whence I intend to deduce the civil rights of the British colonies, that all of them are subject to, and dependent on Great-Britain; and that therefore as over subordinate governments, the parliament of Great-Britain has an undoubted power and lawful authority, to make acts for the general good, that by naming them, shall and ought to be equally binding, as upon the subjects of Great-Britain within the realm. This principle, I presume, will be readily granted on the other side the Atlantic. It has been practiced upon for twenty years to my knowledge, in the province of the *Massachusetts-Bay*; and I have ever received it, that it has been so from the beginning, in this and the sister provinces, through the continent*.

I am aware, some will think it is time for me to retreat, after having expressed the power of the British parliament in quite so strong terms. But it is from and under this very power and

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* This however was formally declared as to Ireland, but so lately as the reign of G. I. Upon the old principles of conquest the Irish could not have so much to say for an exemption, as the unconquered Colonists.

its acts, and from the common law, that the political and civil rights of the Colonists are derived: and upon those grand pillars of liberty shall my defence be rested. At present therefore the reader may suppose, that there is not one provincial charter on the continent; he may, if he pleases, imagine all taken away, without fault, without forfeiture, without trial or notice. All this really happened to some of them in the last century. I would have the reader carry his imagination still further, and suppose a time may come when instead of a process at common law, the parliament shall give a decisive blow to every charter in America, and declare them all void. Nay it shall also be granted, that it is barely possible, the time may come, when the real interest of the whole may require an act of parliament to annihilate all those charters. What could follow from all this, that would shake one of the essential, natural, civil or religious rights of the Colonists? Nothing. They would be men, citizens and British subjects after all. No act of parliament can deprive them of the liberties of such, unless any will contend that an act of parliament can make slaves not only of one, but of two millions of the commonwealth. And if so, why not of the whole? I freely own, that I can find nothing in the laws of my country, that would justify the parliament in making one slave, nor did they ever professedly undertake to make one.

Two or three innocent colony charters have been threatened with destruction an hundred
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and forty years past. I wish the present enemies of those harmless charters would reflect a moment, and be convinced that an act of parliament that should demolish those bugbears to the foes of liberty, would not reduce the Colonists to a state of absolute slavery. The worst enemies of the charter governments are by no means to be found in England. It is a piece of justice due to Great-Britain to own, they are and have ever been natives of or residents in the colonies. A set of men in America, without honour or love to their country, have been long grasping at powers, which they think unattainable while these charters stand in the way. But they will meet with insurmountable obstacles to their project for enslaving the British colonies, should those, arising from provincial charters be removed. It would indeed seem very hard and severe for those of the colonists who have charters with peculiar privileges to lose them. They were given to their ancestors, in consideration of their sufferings and merit, in discovering and settling America. Our fore-fathers were soon worn away in the toils of hard labour on their little plantations, and in war with the savages. They thought they were earning a sure inheritance for their posterity. Could they imagine it would ever be thought just to deprive them or theirs of their charter privileges! Should this ever be the case, there are, thank God, natural, inherent and inseparable rights as men, and as citizens, that would remain after the so-much-wished-for catastrophe, and

which, whatever became of charters, can never be abolished *de jure*, if *de facto*, till the general conflagration *. Our rights as men and freeborn British subjects, gave all the colonists enough to make them very happy in comparison with the subjects of any other prince in the world.

Every British Subject born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of parliament, (exclusive of all charters from the crown) entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great-Britain. Among those rights are the following, which it is humbly conceived no man or body of men, not excepting the parliament, justly, equitably and consistently with their own rights and the constitution, can take away.

1st. *That the supreme and subordinate powers of legislation should be free and sacred in the hands where the community have once rightfully placed them.*

2dly. *The supreme national legislative cannot be altered justly till the commonwealth is dissolved, nor a subordinate legislative taken away without forfeiture or other good cause. Nor then can the subjects in the subordinate government*

* The fine defence of the provincial charters by *Jeremy Dummer, Esq;* the late very able and learned agent for the province of *Massachusetts-Bay*, makes it needless to go into a particular consideration of charter privileges. That piece is unanswerable, but by power and might, and other arguments of that kind.

ment be reduced to a state of slavery, and subject to the despotic rule of others. A state has no right to make slaves of the conquered. Even when the subordinate right of legislature is forfeited, and so declared, this cannot affect the natural persons either of those who were invested with it, or the inhabitants*, so far as to deprive them of the rights of subjects and of men.—The colonists will have an equitable right, notwithstanding any such forfeiture of charter to be represented in parliament, or to have some new subordinate legislature among themselves. It would be best if they had both. Deprived, however, of their common rights as subjects, they cannot lawfully be, while they remain such. A representation in Parliament from the several colonies, since they are become so large and numerous, as to be called on not only to maintain provincial government, civil and military, among themselves, for this they have cheerfully done, but to contribute towards the support of a national standing army, by reason of the heavy national debt, when they themselves owe a large one, contracted in the common cause, cannot be thought an unreasonable thing, nor if asked, could it be called an immodest request. *Qui sentit commodum sentire debet et onus*, has been thought a maxim of equity. But that a man should bear a burthen for other people, as well as himself, without a return, never long found a place in any law-book or decrees, but those
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* See Magna Charta, the Bill of Rights. 3 Mod. 152.
2 Salkeld 411. Vaughan 300.

of the most despotic princes. Besides the equity of an American representation in parliament, a thousand advantages would result from it. It would be the most effectual means of giving those of both countries a thorough knowledge of each others interests ; as well as that of the whole, which are inseparable.

Were this representation allowed ; instead of the scandalous memorials and depositions that have been sometimes, in days of old, privately cooked up in an inquisitorial manner, by persons of bad minds and wicked views, and sent from America to the several boards, persons of the first reputation among their countrymen, might be on the spot, from the several colonies, truly to represent them. Future ministers need not, like some of their predecessors, have recourse for information in American affairs, to every vagabond stroller, that has run or rid post through America, from his creditors, or to people of no kind of reputation from the colonies ; some of whom, at the time of administering their sage advice, have been as ignorant of the state of this country, as of the regions in Jupiter and Saturn.

No representation of the colonies in parliament alone, would, however, be equivalent to a subordinate legislative among themselves ; nor so well answer the ends of increasing their prosperity and the commerce of Great-Britain. It would be impossible for the parliament to judge so well of their abilities to bear taxes, impositions on trade, and other duties and bur-

burthens, or of the local laws that might be really needful, as a legislative here.

3dly. *No legislative, supreme or subordinate, has a right to make itself arbitrary.*

It would be a most manifest contradiction, for a free legislative, like that of Great-Britain, to make itself arbitrary.

4thly. *The supreme legislative cannot justly assume a power of ruling by extempore arbitrary decrees, but is bound to dispense justice by known settled rules, and by duly authorized independent judges.*

5thly. *The supreme power cannot take from any man any part of his property, without his consent in person or by representation.*

6thly. *The legislative cannot transfer the power of making laws to any other hands.*

These are their bounds, which by God and nature are fixed, hitherto have they a right to come and no further.

1. *To govern by stated laws.*

2. *Those laws should have no other end ultimately, but the good of the people.*

3. *Taxes are not to be laid on the people, but by their consent in person, or by deputation.*

4. *Their whole power is not transferable*.*

These are the first principles of law and justice, and the great barriers of a free state and of the British constitution in particular. I ask, I want no more—Now let it be shewn how it is reconcileable with these principles, or to many other fundamental maxims of the British constitution, as well as the natural and civil

* See Locke on Government. B. H. C. xi.

vil rights, which by the laws of their country, all British subjects are entitled to, as their best inheritance and birth-right, that all the northern colonies, who are without one representative in the house of commons, should be taxed by the British parliament,

That the colonists, black and white, born here, are free-born British subjects, and entitled to all the essential civil rights of such, is a truth not only manifest from the provincial charters, from the principles of the common law, and acts of parliament; but from the British constitution which was re-established at the revolution, with a professed design to secure the liberties of all the subjects to all generations*.

In the 12 and 13 of Wm. cited above, the liberties of the subject are spoken of as their best birth-rights—No one ever dreamed, surely, that these liberties were confined to the realm. At that rate no British subjects in the dominions could, without a manifest contradiction, be declared entitled to all the privileges of subjects born within the realm, to all intents and purposes, which are rightly given foreigners, by parliament, after residing seven years. These expressions of parliament, as well as of the charters, must be vain and empty sounds, unless we are allowed the essential rights of our fellow-subjects in Great Britain.

Now can there be any liberty, where property is taken away without consent? Can it
with

* See the convention, and acts confirming it.

with any colour of truth, justice or equity, be affirmed, that the northern colonies are represented in parliament? Has this whole continent, of near three thousand miles in length, and in which, and his other American dominions, his Majesty has, or very soon will have some millions of as good, loyal and useful subjects, white and black, as any in the three kingdoms, the election of one member of the house of commons?

Is there the least difference, as to the consent of the Colonists, whether taxes and impositions are laid on their trade, and other property, by the crown alone, or by the parliament? As it is agreed on all hands, the Crown alone cannot impose them, we should be justifiable in refusing to pay them, but must and ought to yield obedience to an act of parliament, though erroneous, till repealed.

I can see no reason to doubt, but that the imposition of taxes, whether on trade, or on land, or houses, or ships, on real or personal, fixed or floating property, in the colonies, is absolutely irreconcilable with the rights of the Colonists, as British subjects, and as men. I say men, for in a state of nature, no man can take my property from me, without my consent: If he does, he deprives me of my liberty, and makes me a slave. If such a proceeding is a breach of the law of nature, no law of society can make it just.—The very act of taxing, exercised over those who are not represented, appears to me to be depriving them of one of their most essential rights, as

freemen ; and if continued, seems to be in effect an intire disfranchisement of every civil right. For what one civil right is worth a rush, after a man's property is subject to be taken from him at pleasure, without his consent ? If a man is not his *own assessor* in person, or by deputy, his liberty is gone, or lays intirely at the mercy of others.

I think I have heard it said, that when the Dutch are asked why they enslave their colonies, their answer is, that the liberty of Dutchmen is confined to Holland ; and that it was never intended for Provincials in America, or any where else. A sentiment this, very worthy of modern Dutchmen ; but if their brave and worthy ancestors had entertained such narrow ideas of liberty, seven poor and distressed provinces would never have asserted their rights against the whole Spanish monarchy, of which the present is but a shadow. It is to be hoped, none of our fellow subjects of Britain, great or small, have borrowed this Dutch maxim of plantation politics ; if they have, they had better return it from whence it came ; indeed they had. Modern Dutch or French maxims of state, never will suit with a British constitution. It is a maxim, that the King can do no wrong ; and every good subject is bound to believe his King is not inclined to do any. We are blessed with a prince who has given abundant demonstrations, that in all his actions, he studies the good of his people and the true glory of his crown, which are inseparable. It would therefore be the highest de-

degree of impudence and disloyalty to imagine that the King, at the head of his parliament, could have any, but the most pure and perfect intention of justice, goodness and truth, that human nature is capable of. All this I say and believe of the King and parliament, in all their acts; even in that which so nearly affects the interest of the colonists; and that a most perfect and ready obedience is to be yielded to it, while it remains in force. I will go further, and really admit, that the intention of the ministry was not only to promote the public good, by this act, but that Mr. Chancellor of the Exchequer had therein a particular view to the "ease, the quiet, and the good will of the Colonies," he having made this declaration more than once. Yet I hold that it is possible he may have erred in his kind intentions towards the Colonies, and taken away our fish, and given us a stone. With regard to the parliament, as infallibility belongs not to mortals, it is possible *they* may have been misinformed and deceived. The power of parliament is uncontrollable but by themselves, and we must obey. They only can repeal their own acts. There would be an end of all government, if one or a number of subject or subordinate provinces should take upon them so far to judge of the justice of an act of parliament, as to refuse obedience to it. If there was nothing else to restrain such a step, prudence ought to do it, for forcibly resisting the parliament and the King's laws, is high treason. Therefore let the parliament lay

what burthens they please on us, we must, it is our duty to submit and patiently bear them, till they will be pleased to relieve us. And it is to be presumed, the wisdom and justice of that august assembly, always will afford us relief by repealing such acts, as through mistake, or other human infirmities, have been suffered to pass, if they can be convinced that their proceedings are not constitutional, or not for the common good.

The parliament may be deceived, they may have been misinformed of facts, and the colonies may in many respects be misrepresented to the King, his parliament, and his ministry. In some instances, I am well assured the colonies have been very strangely misrepresented in England. I have now before me a pamphlet, called "The Administration of the Colonies," said to be written by a gentleman who formerly commanded in chief in one of them. I suppose this book was designed for public information and use. There are in it many good regulations proposed, which no power can enforce but the parliament. From all which I infer, that if our hands are tied by the passing of an act of parliament, our mouths are not stopped, provided we speak of that transcendent body with decency, as I have endeavoured always to do; and should any thing have escaped me, or hereafter fall from my pen, that bears the least aspect but that of obedience, duty and loyalty to the King and parliament, and the highest respect for the ministry, the candid will impute it to the

the agony of my heart, rather than to the pravity of my will. If I have one ambitious wish, it is to see Great-Britain at the head of the world, and to see my King, under God, the father of mankind. I pretend neither to the spirit of prophecy, nor any uncommon skill in predicting a Crisis, much less to tell when it begins to be "*nascent*" or is fairly midwiv'd into the world. But if I were to fix a meaning to the two first paragraphs of the *Administration of the Colonies*, though I do not collect it from them, I should say the world was at the eve of the highest scene of earthly power and grandeur that has been ever yet displayed to the view of mankind. The cards are shuffling fast through all Europe. Who will win the prize is with God. This however I know, *detur digniori*. The next universal monarchy will be favourable to the human race, for it must be founded on the principles of equity, moderation and justice. No country has been more distinguished for these principles than Great-Britain, since the revolution. I take it, every subject has a right to give his sentiments to the public, of the utility or inutility of any act whatsoever, even after it is passed, as well as while it is pending—The equity and justice of a bill may be questioned, with perfect submission to the legislature. Reasons may be given, why an act ought to be repealed, and yet obedience must be yielded to it till that repeal takes place. If the reasons that can be given against an act, are such as plainly demonstrate that it is against *natural* equity, the
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executive courts will adjudge such acts void. It may be questioned by some, though I make no doubt of it, whether they are not obliged by their oaths to adjudge such acts void. If there is not a right of private judgement to be exercised, so far at least as to petition for a repeal, or to determine the expediency of risking a trial at law, the parliament might make itself arbitrary, which it is conceived it cannot by the constitution.—I think every man has a right to examine as freely into the origin, spring and foundation of every power and measure in a commonwealth, as into a piece of curious machinery, or a remarkable phenomenon in nature; and that it ought to give no more offence to say, the parliament have erred, or are mistaken, in a matter of fact, or of right, than to say it of a private man, if it is true of both. If the assertion can be proved with regard to either, it is a kindness done them to shew them the truth. With regard to the public, it is the duty of every good citizen to point out what he thinks erroneous in the commonwealth.

I have waited years in hopes to see some one friend of the colonies pleading in public for them. I have waited in vain. One privilege is taken away after another, and where we shall be landed, God knows, and I trust will protect and provide for us even should we be driven and persecuted into a more western wilderness, on the score of liberty, civil and religious, as many of our ancestors were, to these once inhospitable shores of America. I

had

had formed great expectations from a gentleman, who published his first volume in quarto on the rights of the colonies two years since; but, as he foresaw, the state of his health and affairs have prevented his further progress. The misfortune is, gentlemen in America, the best qualified in every respect to state the rights of the colonists, have reasons that prevent them from engaging: some of them have good ones. There are many infinitely better able to serve this cause than I pretend to be; but from indolence, from timidity, or by necessary engagements, they are prevented. There has been a most profound, and I think shameful silence, till it seems almost too late to assert our indisputable rights as men and as citizens. What must posterity think of us. The trade of the whole continent taxed by parliament, stamps and other internal duties and taxes as they are called, talked of, and not one petition to the King and parliament for relief.

I cannot but observe here, that if the parliament have an equitable right to tax our trade, it is indisputable that they have as good an one to tax the lands, and every thing else. The taxing trade furnishes one reason why the other should not be taxed, or else the burdens of the province will be unequally born, upon a supposition that a tax on trade is not a tax on the whole. But take it either way, there is no foundation for the distinction some make in England between an internal and external tax on the colonies. By the first is meant a tax on
trade,

trade, by the latter a tax on land, and the things on it. A tax on trade is either a tax of every man in the province, or it is not. If it is not a tax on the whole, it is unequal and unjust, that a heavy burden should be laid on the trade of the colonies, to maintain an army of soldiers, custom-house officers; and fleets of guard-ships; all which, the incomes of both trade and lands would not furnish means to support so lately as the last war, when all was at stake, and the colonies were reimbursed in part by parliament. How can it be supposed that all of a sudden the trade of the colonies alone can bear all this terrible burden. The late acquisitions in America, as glorious as they have been, and as beneficial as they are to Great-Britain, are only a security to these colonies against the ravages of the French and Indians. Our trade upon the whole is not, I believe, benefited by them one groat. All the time the French Islands were in our hands, the fine sugars, &c. were all shipped home. None as I have been informed were allowed to be brought to the colonies. They were too delicious a morsel for a North American palate. If it be said that a tax on the trade of the colonies is an equal and just tax on the whole of the inhabitants: What then becomes of the notable distinction between external and internal taxes? Why may not the parliament lay stamps, land taxes, establish tythes to the church of England, and so indefinitely. I know of no bounds. I do not mention the tythes out of any disrespect to the church of Eng-

England, which I esteem by far the best *national* church, and to have had as ornaments of it many of the greatest and best men in the world. But to those colonies who in general dissent from a principle of conscience, it would seem a little hard to pay towards the support of a worship, whose modes they cannot conform to.

If an army must be kept up in America, at the expence of the colonies, it would not seem quite so hard if after the parliament had determined the sum to be raised, and apportioned it, to have allowed each colony to assess its quota, and raise it as easily to themselves as might be. But to have the whole levied and collected without our consent is extraordinary. It is allowed even to *tributaries*, and those laid under *military* contribution, to assess and collect the sums demanded. The case of the provinces is certainly likely to be the hardest that can be instanced in story. Will it not equal any thing but downright military execution? Was there ever a tribute imposed even on the conquered? A fleet, an army of soldiers, and another of tax-gatherers kept up, and not a single office either for securing or collecting the duty in the gift of the tributary state.

I am aware it will be objected, that the parliament of *England*, and of Great Britain, since the union, have from early days to this time, made acts to bind if not to tax Ireland: I answer, Ireland is a *conquered* country. I do not, however, lay so much stress on this; for

it is my opinion, that a *conquered* country has, upon submission and good behaviour, the same right to be free, under a conqueror, as the rest of his subjects. But the old notion of the *right of conquest*, has been, in most nations, the cause of many severities and heinous breaches of the law of nature: If any such have taken place with regard to *Ireland*, they should form no precedent for the colonies. The subordination and dependency of *Ireland* to Great-Britain, is expressly declared by act of parliament, in the reign of *Geo. I.* The subordination of the *Colonies* to Great-Britain, never was doubted by a lawyer, if at all; unless perhaps by the author of the *Administration of the colonies*: He indeed seems to make a moot point of it, whether the colony legislative power is as independent "as the legislative Great-Britain holds by its constitution, and under the great charter."—The people hold under the great charter, as it is vulgarly expressed from our law-books: But that the King and parliament should be said to hold under *Magna Charta*, is as new to me, as it is to question whether the colonies are *subordinate* to Great-Britain. The provincial legislative is unquestionably subordinate to that of Great-Britain. I shall endeavour more fully to explain the nature of that subordination, which has puzzled so many in their enquiries. It is often very difficult for great lovers of power, and great lovers of liberty, neither of whom may have been used to the study of law in any of its branches, to see the difference be-

between subordination, absolute slavery and subjection on one side, and liberty, independence and licentiousness on the other. We should endeavour to find the middle road, and confine ourselves to it. The laws, the proceedings of parliament, and the decisions of the judges, relating to *Ireland*, will reflect light on this subject, rendered intricate only by *art*.

“ *Ireland* being of itself a distinct dominion, and no part of the kingdom of England (as it directly appeareth by many authorities in Calvin’s case) was to have PARLIAMENTS holden there as in England.” 4 Inst. 349.

Why should not the colonies have, why are they not entitled to their assemblies, or parliaments, at least, as well as a conquered dominion?

“ *Wales*, after the conquest of it by Edward the First, was annexed to England, *jure proprietatis*, 12 *Ed.* I. by the statute of *Rutland* only, and after, more really by 27 *H.* 8. and 34, but at first received laws from England, as *Ireland* did; but writs proceeded not out of the English chancery, but they had a chancery of their own, as *Ireland* hath; was not bound by the laws of England, unnamed till 27 *H.* 8. no more than *Ireland* is,

Ireland in nothing differs from it, but having a parliament *gratia Regis* (i. e. upon the old notion of conquest) subject (truly however) to the parliament of England. None doubts *Ireland* as much conquered as it; and as much

subject to the parliament of England, if it please."

Vaughan. 300.

A very strong argument arises from this authority, in favour of the *unconquered* plantations. If since Wales was annexed to England, they have had a representation in parliament, as they have to this day; and if the parliament of England does not tax *Ireland*, can it be right they should tax *us*, who have never been *conquered*, but came from England to *colonize*, and have always remained *good subjects* to this day?

I cannot find any instance of a tax laid by the English parliament on *Ireland*. "Sometimes the King of England called his Nobles of Ireland, to come to his parliament of England, &c. and by special words, the parliament of England may bind the subjects of Ireland."—3 *Inst.* 350.—

The following makes it clear to me, the parliament of Great-Britain do not tax *Ireland*. "The parliament of Ireland having been prorogued to the month of August *next before they had provided for the maintenance of the government in that kingdom*, a project was set on foot here to supply that defect, by retrenching the drawbacks upon goods exported thither from England. According to this scheme, the 22d, the house in a grand committee, considered the present laws with respect to drawbacks upon tobaccos, muslins, and East India silks, carried to Ireland; and came to two resolutions, which were reported the next day, and, with an amendment to one of them, agreed

agreed to by the house, as follows, *viz.* 1. That three pence *per* pound, part of the drawback on tobacco to be exported from Great-Britain for Ireland, be taken off.

2. That the said diminution of the drawback to take effect upon all tobacco exported for Ireland, after the 24th of March 1713. and continue until the additional duty of three pence halfpenny *per* pound upon tobacco in Ireland, expiring on the said 24th of March, be *regranted*; and ordered a bill to be brought in, upon the said resolutions."

Proceedings of House of Com. Vol. 5. 72.

This was constitutional; there is an infinite difference between taking off British drawbacks, and imposing Irish or other Provincial duties.

"Ireland is considered as a provincial government, subordinate to, but no part of the Realm of England," Mich. 11. G. 2. in case of Otway and Ramsay.—"Acts of parliaments made here (*i. e.* in England) extend not to Ireland, unless particularly named; much less judgments obtained in the courts here; nor is it possible they should, because we have no officers to carry them into execution there." *ib.*

The first part seems to be applicable to the plantations in general, the latter is not; for by reason of charter reservations and particular acts of parliament, some judgments in England may be executed here, as final judgments, before his Majesty in council on a plantation appeal, and so from the admiralty.

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It seems to have been disputed in Ireland, so lately as the 6 Geo. 1. Whether any act of the British parliament bound Ireland; or at least it was apprehended, that the undoubted right of the British parliament to bind Ireland, was in danger of being shaken: this, I presume, occasioned the act of that year, which declares, that "the kingdom of Ireland ought to be subordinate unto and dependent upon the Imperial Crown of Great-Britain, as being inseparably united thereto. And the King's Majesty, with the consent of the lords and commons of Great-Britain in parliament, hath power to make laws to bind the people of Ireland."—This parliamentary power must have some bounds, even as to *Ireland*, as well as the colonies, who are admitted to be subordinate *ab initio* to Great-Britain; not as *conquered*, but as *emigrant* subjects. If this act should be said to be a declaration not only of the general, but of the universal power of parliament, and that they may tax Ireland, I ask, Why it has never been done? If it had been done a thousand times, it would be a contradiction to the principles of a free government; and what is worse, destroy all subordination consistent with *freedom*, and reduce the people to *slavery*.

To say the parliament is absolute and arbitrary, is a contradiction. The parliament cannot make 2 and 2, 5: Omnipotency cannot do it. The supreme power in a state, is *jus dicere* only:—*jus dare*, strictly speaking, belongs alone to God. Parliaments are in all
cases

cases to *declare* what is for the good of the whole ; but it is not the *declaration* of parliament that makes it so : There must be in every instance, a higher authority, *viz.* GOD. Should an act of parliament be against any of *his* natural laws, which are *immutably* true, *their* declaration would be contrary to eternal truth, equity and justice, and consequently void : and so it would be adjudged by the parliament itself, when convinced of their mistake. Upon this great principle, parliaments repeal such acts as soon as they find they have been mistaken, in having declared them to be for the public good, when in fact they were not so. When such mistake is evident and palpable, as in the instances in the appendix, the judges of the executive courts have declared the act “ of a whole parliament void,” See here the grandeur of the British constitution ! See the wisdom of our ancestors ! The supreme *legislative*, and the supreme *executive*, are a perpetual check and balance to each other. If the supreme executive errs, it is informed by the supreme legislative in parliament : if the supreme legislative errs, it is informed by the supreme executive in the King’s courts of law. Here the King appears, as represented by his judges, in the highest lustre and majesty, as supreme executor of the commonwealth ; and he never shines brighter, but on his throne, at the head of the supreme legislative. This is government ! This is a constitution ! to preserve which, either from foreign or domestic foes, has cost oceans of blood and treasure in every

every age; and the blood and the treasure have upon the whole been well spent. British America, hath been bleeding in this cause from its settlement: we have spent all we could raise, and more; for notwithstanding the parliamentary reimbursements of part, we still remain much in debt. The province of the *Massachusetts*, I believe, has expended more men and money in war since the year 1620; when a few families first landed at Plymouth, in proportion to their ability, than the three Kingdoms together. The same, I believe, may be truly affirmed, of many of the other colonies; though the *Massachusetts* has undoubtedly had the heaviest burthen. This may be thought incredible: but materials are collecting; and though some are lost, enough may remain, to demonstrate it to the world. I have reason to hope at least, that the public will soon see such proofs exhibited, as will shew, that I do not speak quite at random.

Why then is it thought so heinous by the author of the administration of the colonies, and others, that the colonists should aspire after "a one whole legislative power" not independent of, but subordinate to the laws and parliament of Great-Britain?—It is a mistake in this author, to bring so heavy a charge as *high treason* against some of the colonists, which he does in effect in this place*, by representing them as "claiming in fact or indeed, the same full free independent unrestrained power and legislative will, in their several

* Page 39. of the administration.

veral corporations, and under the King's commission and their respective charters, as the government and legislature of Great-Britain holds by its constitution and under the great charter." No such claim was ever thought of by any of the colonists. They are all better men and better subjects; and many of them too well versed in the laws of nature and nations, and the law and constitution of Great-Britain, to think they have a right to more than a *provincial subordinate legislative*. All power is of GOD. Next and only subordinate to him in the present state of the well-formed, beautifully constructed British monarchy, standing where I hope it ever will stand, for the pillars are fixed in judgment, righteousness and truth, is the King and parliament. Under these, it seems easy to conceive subordinate powers in gradation, till we descend to the legislative of a town council, or even a private social club. These have each "a one whole legislative" subordinate, which, when it does not counteract the laws of any of its superiors, is to be indulged. Even when the laws of subordination are transgressed, the superior does not destroy the subordinate, but will negative its acts, as it may in all cases when disapproved. This right of negative is essential, and may be enforced: but in no case are the essential rights of the subjects, inhabiting the subordinate dominions, to be destroyed. This would put it in the power of the superior to reduce the inferior to a state of slavery; which cannot be rightfully done,

even with *conquered* enemies and *rebels*. After satisfaction and security is obtained of the former, and examples are made of so many of the latter, as the ends of government require, the rest are to be restored to all the essential rights of men and citizens. This is the great law of nature ; and agreeable to this law, is the constant practice of all good and mild governments. This lenity and humanity has nowhere been carried farther than in Great-Britain. The Colonies have been so remarkable for loyalty, that there never has been any instance of rebellion or treason in them. This loyalty is, in very handsome terms, acknowledged by the author of the *administration of the colonies*. " It has been often suggested, that care should be taken in the administration of the plantations, lest, in some future time, these colonies should become independent of the mother-country." But perhaps it may be proper on this occasion, nay, it is justice to say it, that if, by becoming independent, is meant a revolt, nothing is farther from their nature, their interests, their thoughts. If a defection from the *alliance* of the mother country be suggested, it ought to be, and can be truly said that their spirit abhors the sense of such ; their attachment to the protestant succession in the house of Hanover, will ever stand unshaken ; and nothing can eradicate from their hearts, their natural and almost mechanical affection to Great-Britain, which they conceive under no other sense, nor call it by any other name than that of *home*. Any such
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suggestion, therefore, is a false and unjust aspersion on their principles and affection; and can arise from nothing but an intire ignorance of their circumstances*." After all this loyalty, it is a little hard to be charged with claiming, and represented as aspiring after independency. The inconsistency of this I leave. We have said that the loyalty of the colonies has never been suspected; this must be restricted to a just suspicion. For it seems there have long been groundless suspicions of us in the minds of individuals. And there have always been those who have endeavoured to magnify these chimerical fears. I find Mr. Dummer complaining of this many years since. "There is, says he, one thing more I have heard often urged against the charter-colonies, and indeed it is what one meets with from people of all conditions and qualities; though, with due respect to their better judgments, I can see neither reason nor colour for it. It is said that their increasing numbers and wealth, joined to their great distance from Britain, will give them an opportunity, in the course of some years, to throw off their dependence on the nation, and declare themselves a free state, if not curbed in time, by being made *entirely subject to the crown*†."

This jealousy has been so long talked of, that many seem to believe it well grounded. Not that there is any danger of "a revolt," even in the opinion of the *author of the administration*, but that the colonists will by fraud or

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* Administration, p. 25, 26. † Defence, 60.

force, avail themselves, in "fact or in-deed", of an independent legislature. This, I think, would be a revolting with a vengeance. What higher revolt can there be, than for a province to assume the right of an independent legislative, or state? I must therefore think this a greater aspersion on the Colonists, than to charge them with a design to revolt, in the sense in which the Gentleman allows they have been abused: It is a more artful and dangerous way of attacking our liberties, than to charge us with being in open rebellion. That could be confuted instantly: but this seeming indirect way of charging the colonies, with a desire of throwing off their dependency, requires more pains to confute it than the other, therefore it has been recurred to. The truth is, Gentlemen have had departments in America, the functions of which they have not been fortunate in executing. The people have by these means been rendered uneasy, at bad Provincial Measures. They have been represented as factious, seditious, and inclined to democracy, whenever they have refused passive obedience to provincial mandates, as arbitrary as those of a Turkish Bashaw: I say, Provincial mandates; for to the King and Parliament they have been ever submissive and obedient.

These representations of us, many of the good people of England swallow with as much ease, as they would a bottle-bubble, or any other story of a cock and a bull; and the worst of it is, among some of the most credulous, have been found Stars and Garters. However, they

they may all rest assured, the Colonists, who do not pretend to understand themselves so well as the people of England; though the author of the Administration makes them the fine compliment, to say, they "know their business much better," yet, will never think of independency. Were they inclined to it, they know the blood and the treasure it would cost, if ever effected; and when done, it would be a thousand to one if their liberties did not fall a sacrifice to the victor.

We all think ourselves happy under Great-Britain. We love, esteem and reverence our mother-country, and adore our King. And could the choice of independency be offered the colonies, or subjection to Great-Britain upon any terms above absolute slavery, I am convinced they would accept the latter. The ministry, in all future generations, may rely on it, that British America will never prove ungrateful, till driven to it, as the last fatal resort against ministerial oppression, which will make the wisest mad, and the weakest strong.

These colonies are, and always have been, "entirely subject to the crown," in the legal sense of the terms. But if any politician of "tampering activity, of wrong-headed experience, misled to be meddling," means, by "curbing the colonies in time," and by "being made entirely subject to the crown;" that this subjection should be absolute, and confined to the crown, he had better have suppressed his wishes. This never will nor can be done, with-

without making the colonists vassals of the crown. Subjects they are ; their lands they hold of the crown, by common soccage, the freest feudal tenure, by which any hold their lands in England, or any where else. Would this gentleman carry us back to the state of the Goths and Vandals, and revive all the military tenures and bondage which our forefathers could not bear ? It may be worth nothing here, that few, if any instances can be given, where colonies have been disposed to forsake or disobey a tender mother : But history is full of examples, that armies stationed as guards over provinces, have seized the prey for their general, and given him a crown at the expence of his master. Are all ambitious generals dead ? Will no more rise up hereafter ? The danger of a standing army in remote provinces is much greater to the metropolis, than at home. Rome found the truth of this assertion, in her Sylla's, her Pompey's and Cæsars ; but she found it too late : Eighteen hundred years have rolled away since her ruin. A continuation of the same liberties that have been enjoyed by the colonists since the revolution, and the same moderation of government exercised towards them, will bind them in perpetual lawful and willing subjection, obedience and love to Great-Britain : She and her Colonies will both prosper and flourish : The monarchy will remain in sound health and full vigour at that blessed period, when the proud arbitrary tyrants of the continent shall either unite in the deliverance of the human

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man race, or resign their crowns. Rescued, human nature must and will be, from the general slavery that has so long triumphed over the species. Great-Britain has done much towards it: What a glory will it be to her to complete the work throughout the world!

The author of the Administration (page 54) "describes" the defects of "provincial courts," by a "very description," the first trait of which is, "The ignorance of the judges." Whether the description, or the description of the description, are *verily* true, either as applied by Lord Hale, or the administrator, is left to the reader. I only ask, who makes the judges in the provinces? I know of but two colonies, *viz.* Connecticut and Rhode-Island, where they are chosen by the people. In all other colonies, they are immediately appointed by the crown, or by his Majesty's governor, with the advice of what the Administrator calls, the "governor's council of state." And if they are in general such ignorant creatures, as the Administrator describes them, it is the misfortune, not the fault of the people, in the colonies. However, I believe, justice in general, is as well administered in the colonies, as it will be when every thing is devolved upon a court of admiralty, general or provincial. The following is very remarkable: "In those popular governments, and where every executive officer is under a dependence for a temporary, wretched, and I had almost said arbitrary support, on the deputies of the people *."

Why

* Adminnist. 59.

Why is the temporary support found fault with? Would it be wise to give a governor a salary for a longer time than his political life? As this is quite as uncertain as his natural life, it has been granted annually. So every governor has the chance of one year's salary after he is dead. All the king's officers are not even in the charter provinces "dependent on the people" for support. The judges of the admiralty, those mirrors of justice, to be trusted, when none of the common law courts are, have all their commissions from home. These, besides other fees, have so much *per cent.* on all they condemn, be it right or wrong, and *this by act of parliament.* Yet so great is their integrity, that it never was suspected that 50 *per cent.* if allowed, would have any influence on their decrees.

Custom-house officers universally, and Naval officers, in all but two or three of the colonies, are, I believe appointed directly from home, or by instruction to the Governor: and take just what they please, for any restraint they are under by the provincial acts. But on whom should a governor depend for his honourable support, but the people? Is not the King fed from the field, and from the labour of his people? Does not his Majesty himself receive his aids from the free grant of his parliament? Do not all these originate in the house of commons? Did the house of Lords ever originate a grant? Do not our law books inform us that the Lords only assent or dissent, but never so much as propose an amendment

mendment, on a money bill? The King can take no more than the parliament will give him, and yet some of his Governors have thought it an insufferable hardship, that they could not take what they pleased. To take leave of the Administrator, there are in his book some good hints, but a multiplicity of mistakes in fact, and errors in matters of right, which I have not time to mention particularly.

Ireland is a conquered kingdom; and yet have thought they received very hard measure in some of the prohibitions and restrictions of their trade. But were the colonies ever conquered? Have they not been subject and obedient, and loyal from their settlement? Were not the settlements made under the British laws and constitution? But if the colonies were all to be considered as conquered, they are entitled to the essential rights of men and citizens. And therefore admitting the right of prohibition, in its utmost extent and latitude; a right of taxation can never be inferred from that. It may be for the good of the whole, that a certain commodity should be prohibited: but this power should be exercised, with great *moderation* and impartiality, over dominions, which are not *represented*, in the national parliament. I had however rather see this carried with a high hand, to the utmost rigour, than have a tax of one shilling taken from me without my consent. A people may be very happy, free and easy among themselves, without a particular branch of foreign trade: I am sure these colonies have the

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natural means of every manufacture in *Europe*, and some that are out of their power to make or produce. It will scarcely be believed a hundred years hence, that the American manufactures could have been brought to such perfection, as they will then probably be in, if the present measures are pushed. One single act of parliament, we find has set people a thinking, in six months, more than they had done in their whole lives before. It should be remembered, that the most famous and flourishing manufactures, of wool, in *France*, were begun by *Lewis XIV.* not an hundred years ago; and they now bid fair to rival the *English*, in every port abroad. All the manufactures that Great-Britain could make, would be consumed in America, and in her own plantations, if put on a right footing; for which a greater profit in return would be made, than she will ever see again for woollen sent to any part of Europe.

But though it be allowed, that liberty may be enjoyed in a comfortable measure, where *prohibitions* are laid on the trade of a kingdom or province; yet if *taxes* are laid on either, *without* consent, they cannot be said to be free. This barrier of liberty being once broken down, all is lost. If a shilling in the pound may be taken from me against my will, why may not twenty shillings? and if so, why not my liberty or my life? Merchants were always *particularly* favoured by the common law—"All merchants, except enemies, may safely come into *England*, with their goods
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and merchandize"—2 Inst.— 28.—And why not as well to the *plantations*? Are they not entitled to all the British privileges? No, they must be confined in their imports and exports, to the good of the metropolis. Very well, we have submitted to this. The act of navigation is a good act, so are all that exclude foreign manufactures from the plantations, and every honest man will readily subscribe to them. Moreover, "Merchant strangers, are also to come into the realm and depart at pleasure; and they are to be friendly entertained." 2 Ri. C. 1. But to promote the manufactures of *England*, it is thought best to shut up the *colonies* in a manner from all the world. Right as to Europe: but for God's sake, must we have no trade with other colonies? In some cases the trade between *British* colony and colony is prohibited, as in wool, &c. Granting all this to be right, is it not enough? No, duties and taxes must be paid without any *consent* or *representation* in parliament. The common law, that inestimable privilege of a jury, is also taken away in all trials in the colonies, relating to the revenue, if the informers have a mind to go to the admiralty; as they have ever done, and ever will do, for very obvious reasons. "It has ever been boasted, says Mr. Dummer, in his defence of the charters, as the peculiar privilege of an Englishman, and the security of his property, to be tried by his country, and the laws of the land: whereas this admiralty method deprives him of both, as it puts his estate in the dis-

posal of a single person, and makes the civil law the rule of judgment; which though it may not properly be called foreign, being the law of nations, yet it is what he has not consented to himself, nor his representative for him. A jurisdiction therefore so founded, ought not to extend beyond what *necessity* requires."

—"If some bounds are not set to the jurisdiction of the admiralty, beyond which it shall not pass, it may in time, like the element to which it ought to be confined, grow outrageous, and overflow the banks of all the other courts of justice." I believe it has never been doubted by one sound, common lawyer of England, whether a court of admiralty ever answered many good ends; "the court of King's Bench has a power to restrain the court of admiralty in England; and the reasons for such restraining power are as strong in New-England as in Great-Britain," and in some respects more so: yet Mr. Dummer mentions, a clamour that was raised at home by a judge of the admiralty for New-England, who complained "that the common law courts by granting prohibitions, weaken, and in a manner suppress the authority of this court, and all the good ends for which it was constituted."

Thus we see, that the court of admiralty long ago discovered, no very friendly disposition towards the common law courts here; and the records of the house of representatives afford us a notable instance of one, who was expelled the house, of which he had been an unworthy member,

member, for the abusive misrepresentations of the province, by him secretly made.

Trade and traffic, says lord Coke, “ is the livelihood of a merchant, the life of the commonwealth, wherein the King and every subject hath interest; for the merchant is the good Bailiff of the realm, to export and vent the native commodities of the realm, and to import and bring in, the necessary commodities for the defence and benefit of the Realm —2 Inst. 28. reading on Magna Charta, C. 15—And are not the merchants of British America entitled to a livelihood also? Are they not British subjects? Are not an infinity of commodities carried from hence for *the benefit of the realm*, for which in return come an infinity of *trifles*, which we could do without? Manufactures we must go into if our trade is cut off; our country is too cold to go naked in, and we shall soon be unable to make returns to England even for necessaries.

“ When any law or custom of parliament is broken, and the crown possessed of a precedent, how difficult a thing is it to restore the subject again to his former freedom and safety?” 2 Inst. *on the confirmation of the great charter*—which provides in these words: “ And for so much as divers people of our realm, are in fear, that the aids and tasks which they have given to us before time, towards our wars, and other business of their own grant and good will (howsoever they were made) might *turn to a bondage* to them and their heirs, because they might be at another time

time found in the rolls, and likewise for the pieces taken throughout the realm by our ministers: we have granted for us and our heirs, that we shall not draw such aids, tasks nor prices *into a custom*, for any thing that hath been done heretofore, be it by roll, or any other precedent that may be founden."

By the first chapter of this act, the great charter is declared to be the common law. I would ask, whether we have not reason to fear, that the great aids, freely given by these provinces in the late war, will in like manner turn *to our bondage*, if they are to be kept on and *increased* during a *peace*, for the maintaining of a *standing army* here?—If it is said those aids were given for *our own* immediate defence, and that England spent millions in the same cause, I answer, The names of his present Majesty, and his royal Grandfather, will be ever dear to every loyal British American, for the protection they afforded us, and the salvation, under God, effected by their arms; but with regard to our fellow-subjects of Britain, we never were a whit behind hand with them. The New-England Colonies in particular, were not only settled without the least expence to the mother country, but they have all along defended themselves against the frequent incursions of the most inhuman Savages, perhaps on the face of the whole earth, at *their own* cost: Those more than brutal *men*, spirited and directed by the most inveterate, as well as the most powerful enemy of Great Britain, have been constantly annoying our infant

fant settlements for more than a century; spreading terror and desolation, and sometimes depopulating whole villages in a night: yet amidst the fatigues of labour, and the horrors of war and bloodshed, Heaven vouchsafed its smiles. Behold, an extensive territory, settled, defended, and secured to his Majesty, I repeat it, *without the least expence to the mother country*, till within twenty years past!—When *Louisbourg* was reduced to his late Majesty, by the valour of his *New-England* subjects, the parliament, it must be owned, saw meet to refund *part* of the charges: And every one knows the importance of *Louisbourg*, in the consultations of *Aix la Chapelle*; but for the loss of our young men, the riches and strength of a country, not indeed slain by the enemy, but overborne by the uncommon hardships of the siege, and their confinement in garrison afterwards, there could be no recompence made.—In the late war, the *northern colonies* not only raised their full quota of men, but they went even beyond their ability; they are still deeply in debt, notwithstanding the parliamentary grants annually made them, *in part* of their expences, in the common, *national, cause*: Had it not been for those grants, they had all been bankrupt long ago; while the *sugar colonies* have borne little or no share in it: They indeed sent a company or two of *Negroes* and *Molattoes*, if this be worth mentioning, to the sieges of *Guadaloupe*, *Martinico* and the *Havanna*: I do not recollect any thing else that they have
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done; while the flower of *our* youth were annually pressed by ten thousands into the service, and there treated but little better, as we have been told, than hewers of wood and drawers of water. Provincial acts for impressing were obtained, only by letters of requisition from a secretary of state to a Governor; requiring him to use his influence to raise men; and sometimes, more than were asked for or wanted, were pressed, to give a figure to the Governor, and shew his influence; a remarkable instance of which might be mentioned. I would further observe, that Great-Britain was as immediately interested in the late war in America, as the colonies were. Was she not threatened with an invasion at the same time we were? Has she not an immense trade to the colonies? The British writers say, more than half her profitable trade is to *America*: All the profits of our trade center there, and is little enough to pay for the goods we import. A prodigious revenue arises to the Crown on American exports to Great-Britain, which in general is not murmured at: No manufacture of Europe besides British, can be lawfully brought here; and no honest man desires they ever should, if the laws were put in execution upon all. With regard to a few Dutch imports that have made such a noise, the truth is, very little has been or could be run, before the apparatus of guardships; for the officers of some ports did their duty, while others may have made a monopoly of smuggling for a few of their friends, who probably paid them

them large contributions ; for it has been observed, that a very small office in the customs in America has raised a man a fortune sooner than a government. The truth is, the acts of trade have been too often evaded ; but by whom ? Not by the American merchants in general, but by some former custom-house officers, their friends and partizans. I name no man, not being about to turn informer : But it has been a notorious grievance, that when the King himself cannot dispense with an act of parliament, there have been custom-house officers who have practised it for years together, in favour of those towards whom they were graciously disposed.

But to return to the subject of taxation : I find that “ the lords and commons cannot be charged with any thing for the defence of the realm, for the safe-guard of the sea, &c. unless by their *will* in parliament.”

Ld. Coke, on Magna Charta, Cap. 30.

“ Impositions neither in time of war, or other, the greatest necessity or occasion that may be, much less in the time of peace, neither upon foreign or inland commodities, of what nature soever, be they never so superfluous or unnecessary, neither upon merchants, strangers, nor denizens, may be laid by the King's absolute power, without assent of parliament, be it never for so short a time.”

Viner Prerogative of the King.

Ea. 1. cites 2 Molloy. 320 Cap. 12. sec. 1.

“ In the reign of Edward III. the Black Prince of Wales having *Aquitain* granted to
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him, did lay an imposition of fuage or focage *a foco*, upon his subjects of that dukedom, *viz.* a shilling for every fire, called hearth silver, which was of so great discontentment and odious to them, that it made them revolt. And nothing since this time has been imposed by pretext of any prerogative, upon merchandizes, imported into or exported out of this realm, until Queen Mary's time." 2 Inst. 61.

Nor has any thing of that kind taken place since the revolution. King Charles I. his ship-money every one has heard of.

It may be said that these authorities will not serve the colonists, because the duties laid on them are by parliament. I acknowledge the difference of fact; but cannot see the great difference in equity, while the colonists are not represented in the house of commons: And therefore with all humble deference I apprehend, that till the colonists are so represented, the spirit of all these authorities will argue strongly in their favour. When the parliament shall think fit to allow the colonists a representation in the house of commons, the equity of their taxing the colonies will be as clear as their power is at present of doing it without, if they please. When Mr. Dummer wrote his defence of the charters, there was a talk of taking them away, by act of parliament. This defence is dedicated to the right honourable the Lord Carteret, then one of his Majesty's principal secretaries of state, since Earl of Granville. His third proposition is, that "it is not for the interest of the crown

to resume the charters, if forfeited." This he proves; as also that it would be more for the interest of Great-Britain to enlarge, rather than diminish, the privilege of all the colonists. His last proposition is, that it "seems inconsistent with justice to disfranchise the charter colonies by an act of parliament."

"It seems therefore, says he, a severity without a precedent, that a people, who have the misfortune of being a thousand leagues distant from their sovereign, a misfortune great enough in itself, should, unsummoned, unheard, in one day, be deprived of their valuable privileges, which they and their fathers have enjoyed for near a hundred years." It is true, as he observes, "the legislative power is absolute and unaccountable, and King, lords and commons, may do what they please; but the question here is not about *power*, but *right*" (or rather equity) "and shall not the supreme judicature of all the nation do right?" "One may say, that what the parliament cannot do justly, they cannot do at all. *In maximis minima est licentia*. The higher the power is, the greater caution is to be used in the execution of it; because the sufferer is helpless and without resort." I never heard that this reasoning gave any offence. Why should it? Is it not exactly agreeable to the decisions of parliament and the determinations of the highest executive courts? (See the Appendix.) But if it was thought hard that charter privileges should be taken away by act of parliament, is it not much harder to be in part, or

in whole, disfranchised of rights, that have been always thought inherent to a British subject, namely, to be free from all taxes, but what he consents to in person, or by his representative? This right, if it could be traced no higher than Magna Charta, is part of the common law, part of a British subjects birth-right, and as inherent and perpetual; as the duty of allegiance; both which have been brought to these colonies, and have been hitherto held sacred and inviolable, and I hope and trust ever will. It is humbly conceived, that the British colonists (except only the conquered, if any) are, by Magna Charta, as well entitled to have a voice in their taxes, as the subjects within the realm. Are we not as really deprived of that right, by the parliament assessing us before we are represented in the house of commons, as if the King should do it by his prerogative? Can it be said with any colour of truth or justice, that we are represented in parliament?

As to the colonists being represented by the provincial agents, I know of no power ever given them, but to appear before his Majesty, and his ministry. Sometimes they have been directed to petition the parliament: But they none of them have, and I hope never will have, a power given them, by the colonist, to act as representatives, and to consent to taxes; and if they should make any concessions to the ministry, especially without order, the provinces could not by that be considered as represented in parliament.

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Hibernia habet Parliamenta & faciunt leges et nostra statuta non ligant eos, quia non mittant milites ad Parliamentum, sed personæ eorum sunt subiecti Regis, sicut inhabitantes Calinæ Gasconia & Guiennæ.

12 Rep. 111. cites R. 3. 12—

“Ireland hath parliaments, and make laws, and our statutes do not bind them, *because they send no knights to parliament*; but their persons are subjects of the King, as the inhabitants of Guiene, Gascony, &c.”

Yet, if especially named, or by general words included as within any of the King's dominions, Ireland, says *Ld. Coke*, might be bound.

4 Inst. 351.

From all which it seems plain, that the reason why Ireland and the plantations are not bound, unless named by an act of parliament, is, because they are *not represented* in the British parliament. Yet, in special cases, the British parliament has an undoubted right, as well as power, to bind both by their acts. But whether this can be extended to an indefinite taxation of both, is the great question. I conceive the spirit of the British constitution must make an exception of all taxes, until it is thought fit to unite a dominion to the realm. Such taxation must be considered either as uniting the dominions to the realm, or disfranchising them. If they are united, they will be intitled to a representation, as well as Wales; if they are so taxed without a union, or representation, they are so far disfranchised.

I do not find any thing that looks like a duty on the colonies before the 25th of C. II. c. 7. imposing a duty on innumeraed commodities. The liberty of the subject was little attended to in that reign. If the nation could not fully assert their rights till the revolution, the colonies could not expect to be heard. I look upon this act rather as a precedent of power, than of right and equity; if it is such, it will not affect my argument. The act appointing a tax on all mariners, of a certain sum *per* month, to be deducted out of their wages, is not to be compared with this. Mariners are not inhabitants of any part of the dominions: the sea is their element, till they are decrepit, and then the hospital is open for all marines who are British subjects without exception. The general post-office established through the dominions, is for the convenience of trade and commerce: it is not laying any burden upon it; for besides that it is upon the whole cheaper to correspond in this way than any other, every one is at liberty to send his own letters by a friend. The act of the 6th of his late Majesty, though it imposes a *duty* in terms, has been said to be designed for a *prohibition*; which is probable from the sums imposed; and it is pity it had not been so expressed, as there is not the least doubt of the just and equitable right of the parliament to lay prohibitions through the dominions, when they think the good of the whole requires it. But as has been said, there is an infinite difference between that and the exercise

cise of unlimited power of 'taxation, over the dominions, without allowing them a representation :—It is said that the duties imposed by the new act will amount to a prohibition : Time only can ascertain this. The utility of this act is so fully examined in the appendix, that I shall add nothing on that head here. It may be said that the colonies ought to bear their proportion of the national burdens : It is just they should, and I think I have proved they have always done it freely and cheerfully, and I know no reason to doubt but they ever will.

Sometimes we have been considered only as the corporations in England : And it may be urged that it is no harder upon us to be taxed by parliament for the general cause than for them, who besides are at the expence of their corporate subordinate government*. I answer, 1. Those corporations are *represented* in parliament. 2. The colonies are and have been at a great expence in raising men, building forts, and supporting the King's civil government here. Now I read of no governors and other officers of his Majesty's nomination, that the city of London taxes its inhabitants to support ; I know of no forts and garrisons that the city of London has lately built at its own expence, or of any annual levies that they have raised for the King's service and the common cause. These are things very fitting and proper to be done by a subordinate dominion, and it is their duty to do all they are able ; but it seems

* See Administration of the Colonies.

seems but equal they should be allowed to assess the charges of it themselves. The rules of equity and the principles of the constitution seem to require this. Those who judge of the reciprocal rights that subsist between a supreme and subordinate state of dominion, by no higher rules than are applied to a corporation of button-makers, will never have a very comprehensive view of them. Yet, sorry am I to say it, many elaborate writers on the *administration of the colonies*, seem to me never to rise higher in their notions, than what might be expected from his secretary to one of the *quorum*. If I should be ranked among this number, I shall have this consolation, that I have fallen into what is called very good company, and among some who have seen very high life below stairs. I agree with the Administrator, that of whatever revenues raised in the colonies, if they must be raised without our consent, "*the first and special appropriation of them ought to be to the paying the Governors, and all the other Crown officers;*" for it would be hard for the Colonists to be obliged to pay them after this. It was on this principle that at the last assembly of this province, I moved to stop every grant to the officers of the Crown; more especially as I know some who have built very much upon the fine salaries they shall receive from the plantation branch of the revenue. Nor can I think it "injustice to the frame of human nature*," to suppose, if I did not know it, that with similar

milar views several officers of the Crown in
 some of the colonies have been pushing for such
 an act for many years. They have obtained
 their wish, and much good it will do them :
 but I would not give much for all that will
 center neat in the exchequer, after deducting
 the costs attending the execution of it, and
 the appropriations to the several officers pro-
 posed by the Administrator. What will be
 the unavoidable consequence of all this, sup-
 pose another war should happen, and it should
 be necessary to employ as many provin-
 cials in America as in the last? Would it
 be possible for the colonies, after being bur-
 thened in their trade, perhaps after it is ruin-
 ed, to raise men? Is it probable that they
 would have spirit enough to exert themselves?
 If it is said the French will never try for A-
 merica, or if they should, regular troops are
 only to be employed. I grant our regular
 troops are the best in the world, and that the
 experience of the present officers shews that
 they are capable of every species of American
 service ; yet we should guard against the worst.
 If another trial for Canada should take place,
 which from the known temper of France, we
 may judge she will bring on the first fair op-
 portunity, it might require 30 or 40,000 re-
 gulars to secure his Majesty's just rights. If it
 should be said, that other American duties must
 then be levied, besides the impossibility of our
 being able to pay them, the danger recurs of
 a large standing army so remote from home.
 Whereas a good provincial militia, with such
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occasional succours from the mother country, as exigencies may require, never was, and never will be attended with hazard. The experience of past times will shew, that an army of 20 or 30,000 veterans, half 3000 miles from *Rome*, were very apt to proclaim *Cæsars*. The first of the name, the assassin of his country owed his false glory, to stealing the affections of an army from a commonwealth. I hope these hints will not be taken amiss; they seem to occur from the nature of the subject I am upon: they are delivered in pure affection to my King and country, and amount to no reflection on any man. The best army, and the best men, we may hereafter have, may be led into temptation; all I think, is, that a prevention of evil is much easier than a deliverance from it.

The sum of my argument is, That civil government is of God: that the administrators of it were originally the whole people: that they might have devolved it on whom they pleased: that this devolution is fiduciary, for the good of the whole: that by the British constitution, this devolution is on the King, lords and commons, the supreme, sacred and uncontrollable legislative power, not only in the realm, but through the dominions: that by the abdication, the original compact was broken to pieces: that by the revolution it was renewed, and more firmly established, and the rights and liberties of the subject in all parts of the dominions, more fully explained and confirmed: that in consequence of this

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establishment and the acts of succession and union, his Majesty GEORGE III. is rightful king and sovereign, and with his parliament, the supreme legislative of Great-Britain, France and Ireland, and the dominions thereunto belonging: that this constitution is the most free one, and by far the best, now existing on earth: that by this constitution, every man in the dominions is a free man: that no parts of his Majesty's dominions can be taxed without their consent: that every part has a right to be represented in the supreme or some subordinate legislature, that the refusal of this, would seem to be a contradiction in practice to the theory of the constitution: that the colonies are subordinate dominions, and are now in such a state, as to make it best for the good of the whole, that they should not only be continued in the enjoyment of subordinate legislation, but be also represented in some proportion to their number and estates in the grand legislation of the nation: that this would firmly unite all parts of the British empire, in the greatest peace and prosperity; and render it invulnerable and perpetual.

A P P E N D I X.

The City of *Boston*, at their Annual Meeting in *May* 1764, made Choice of *Richard Dana*, *Joseph Green*, *Nathaniel Bethune*, *John Ruddock*, Esqrs; and Mr. *Samuel Adams*, to prepare INSTRUCTIONS for their REPRESENTATIVES.

The following Instructions were reported by said Committee, and unanimously voted.

To *Royal Tyler**, *James Otis*, *Thomas Cushing*, and *Oxenbridge Thacher*, Esqrs.

GENTLEMEN,

YOUR being chosen by the freeholders and inhabitants of the town of *Boston*, to represent them in the General Assembly the ensuing year, affords you the strongest testimony of that confidence (which they place in your integrity and capacity. By this choice they have

* Now of the honourable board; in whose room was returned Mr. *Thomas Grey*, Merchant.

have delegated to you the power of acting in their public concerns in general, as your own Prudence shall direct you ; always reserving to themselves the constitutional right of expressing their mind, and giving you such instruction upon particular matters, as they at any time shall judge proper.

We therefore, your constituents, take this opportunity to declare our just expectations from you,

That you will constantly use your power and influence in maintaining the invaluable rights and privileges of the province, of which this town is so great a part : As well those rights which are derived to us by the royal charter, as those which being prior to an independent on it, we hold essentially as free-born subjects of Great-Britain ;

That you will endeavour, as far as you shall be able, to preserve that independence in the house of representatives, which characterises a free people ; and the want of which may in a great measure prevent the happy effects of a free government : Cultivating as you shall have opportunity, that harmony and union there, which is ever desirable to good men, when founded on principles of virtue and public spirit ; and guarding against any undue weight which may tend to disadjust that critical balance upon which our happy constitution, and the blessings of it do depend. And for this purpose, we particularly recommend it to you to use your endeavours to have a law passed, whereby the seats of such gentlemen

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as shall accept of posts of profit from the Crown, or the Governor, while they are members of the house, shall be vacated, agreeable to an act of the British parliament, till their constituents shall have the opportunity of re-electing them, if they please, or of returning others in their room.

Being members of the legislative body, you will have a special regard to the morals of this people, which are the basis of public happiness; and endeavour to have such laws made, if any are still wanting, as shall be best adapted to secure them: And we particularly desire you carefully to look into the laws of excise, that if the virtue of the people is endangered by the multiplicity of oaths therein enjoined, or their trade and business is unreasonably impeded or embarrassed thereby, the grievance may be redressed.

As the preservation of morals, as well as property and right, so much depends upon the impartial distribution of justice, agreeable to good and wholesome law: And as the judges of the land do depend upon the free grants of the general assembly for support; it is incumbent upon you at all times to give your voice for their honourable maintenance, so long as they, having in their minds an indifference to all other affairs, shall devote themselves wholly to the duties of their own department, and the farther study of the law, by which their customs, precedents, proceedings and determinations are adjusted and limited.

You will remember that this province hath
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been at a very great expence in carrying on the war; and that it still lies under a very grievous burden of debt: You will therefore use your utmost endeavour to promote public frugality as one means to lessen the public debt.

You will join in any proposals which may be made for the better cultivating the lands, and improving the husbandry of the province: and as you represent a town which lives by its trade, we expect in a very particular manner, that you make it the object of your attention, to support our commerce in all its just rights, to vindicate it from all unreasonable impositions, and promote its prosperity.—Our trade has for a long time laboured under great discouragements; and it is with the deepest concern that we see such farther difficulties coming upon it, as will reduce it to the lowest ebb, if not totally obstruct and ruin it. We cannot help expressing our surprize that when so early notice was given by the agent, of the intentions of the ministry, to burthen us with new taxes, so little regard was had to this most interesting matter, that the court was not even called together to consult about it till the latter end of the year; the consequence of which was, that instructions could not be sent to the agent, though solicited by him, till the evil had got beyond an easy remedy.

There is now no room for farther delay: We therefore expect that you will use your earliest endeavours in the General Assembly, that such methods may be taken as will effectually

tually prevent these proceedings against us. By a proper representation, we apprehend it may easily be made to appear that such severities will prove detrimental to Great-Britain itself; upon which account we have reason to hope that an application, even for a repeal of the act, should it be already passed, will be successful. It is the trade of the colonies that renders them beneficial to the mother country: Our trade, as it is now, and always has been conducted, centers in Great-Britain, and in return for her manufactures, affords her more ready cash, beyond any comparison, than can possibly be expected by the most sanguine promoters of these extraordinary methods. We are in short ultimately yielding large supplies to the revenues of the mother country, while we are labouring for a very moderate subsistence for ourselves. But if our trade is to be curtailed in its most profitable branches, and burdens beyond all possible bearing laid upon that which is suffered to remain, we shall be so far from being able to take off the manufactures of Great-Britain, that it will be scarce possible for us to earn our bread.—

But what still heightens our apprehensions is, that these unexpected proceedings may be preparatory to new taxations upon us: For if our trade may be taxed, why not our lands? Why not the produce of our lands, and every thing we possess or make use of? This we apprehend annihilates our charter right to govern and tax ourselves—It strikes at our British privileges, which as we have never forfeited

feited them, we hold in common with our fellow-subjects who are natives of Britain: if taxes are laid upon us in any shape without our having a legal representation where they are laid, are we not reduced from the character of free subjects to the miserable state of tributary slaves?

We therefore earnestly recommend it to you to use your utmost endeavours, to obtain in the general assembly, all necessary instruction and advice to our agent at this most critical juncture; that while he is setting forth the unshaken loyalty of this province and this town—its unrivaled exertion in supporting his Majesty's government and rights in this part of his dominions—its acknowledged dependence upon and subordination to Great-Britain; and the ready submission of its merchants to all just and necessary regulations of trade; he may be able in the most humble and pressing manner to remonstrate for us all those rights and privileges which justly belong to us either by charter or birth.

As his Majesty's other northern American colonies are embarked with us in this most important bottom, we farther desire you to use your endeavours, that their weight may be added to that of this province: that by the united application of all who are aggrieved, All may happily obtain redress.

Substance of a Memorial presented the House, in pursuance of the above Instructions; and by them voted to be transmitted to JASPER MAUDUIT, Esq; Agent for this Province†; to be improved as he may judge proper.

THE public transactions from William I. to the revolution, may be considered as one continued struggle between the prince and the people, all tending to that happy establishment, which Great-Britain has since enjoyed.

The absolute rights of Englishmen, as frequently declared in parliament, from Magna Charta to this time, are the rights of *personal security, personal liberty, and of private property.*

The allegiance of British subjects being natural, perpetual and inseparable from their persons, let them be in what country they may; their rights are also natural, inherent and perpetual.

By the laws of nature and of nations, the voice of universal reason, and of God, when a nation takes possession of a desert, uncultivated and uninhabited country, or purchases of Savages, as was the case with far the greatest part of the British settlements; the colonists transplanting themselves, and their posterity, though separated from the principal establishment or mother country, naturally become part of the state with its ancient possessions, and

† Only as a State drawn up by one of the House.

and intitled to all the essential rights of the mother country. This is not only confirmed by the practice of the antients, but by the moderns ever since the discovery of America. Frenchmen, Spaniards, and Portuguese are no greater slaves abroad than at home; and hitherto Britons have been as free on one side of the Atlantic as on the other: And its humbly hoped that his Majesty and the Parliament, will in their wisdom be graciously pleased to continue the colonists in this happy state.

It is presumed, that upon these principles, the colonists have been by their several charters declared natural subjects, and entrusted with the power of making *their own local laws*, not repugnant to the laws of England, and with *the power of taxing themselves*.

This legislative power is subject by the same charter to the King's negative, as in Ireland. This effectually secures the *dependence* of the colonies on Great-Britain.—By the *thirteenth* of George the Second, *chapter the ninth*, even foreigners having lived seven years in any of the colonies, are deemed natives on taking the oaths of allegiance, &c. and are declared by the said act to be his Majesty's natural born subjects of the kingdom of Great-Britain, to all intents, constructions and purposes, as if any of them had been born within the kingdom. The reasons given for this naturalization in the preamble of the act are, “ that the increase of the people is the means of advancing the wealth and strength of any nation or country; and that many foreigners and stran-

gers, from the lenity of our government, the purity of our religion, the benefit of our laws, the advantages of our trade, and the security of our *property*, might be induced to come and settle in some of his Majesty's colonies in America; if they were partakers of the advantages and privileges, which the natural born subjects there enjoy†.

The several acts of parliament and charters declaratory of the rights and liberties of the colonies, are but in affirmance of the common law, and law of nature in this point. There are, says my Lord Coke, regularly three incidents to subjects born. (1) Parents under the actual obedience of the King. (2.) That the place of his birth be within the King's dominions. (3) The time of his birth to be chiefly considered: For he cannot be a subject born of one kingdom, that was born under the allegiance of the King of another kingdom; albeit afterwards the kingdom descends to the King of the other kingdom. See Calvin's case, and the several acts of parliament and decisions on naturalization, from Edward the Third to this day. The common law is received and practised upon here, and in the rest of the colonies; and all antient and modern acts of parliament that can be considered as part of, or in amendment of the common law, together with all such acts of parliament as expressly name the plantations; so that the power of the British parliament is held as sacred and as uncontrollable in the colonies

† 13 G. 2 C. 7.

colonies as in England. The question is not upon the general power or right of the parliament, but whether it is not circumscribed within some equitable and reasonable bounds? It is hoped it will not be considered as a new doctrine, that even the authority of the parliament of *Great-Britain* is circumscribed by certain bounds, which if exceeded, their acts become those of meer power without right, and consequently void. The judges of England have declared in favour of these sentiments, when they expressly declare, that *acts of parliament against natural equity are void*. That *acts against the fundamental principles of the British constitution are void*†. This doctrine

† “ A very important question here presents itself. It essentially belongs to the society to make laws both in relation to the manner in which it desires to be governed, and to the conduct of the citizens: this is called the *Legislative Power*. The nation may entrust the exercise of it to the Prince, or to an assembly; or to the assembly and the Prince jointly; who have then a right of making new, and abrogating old laws. It is here demanded, whether, if their power extends so far as to the fundamental laws, they may change the constitution of the state? The principles we have laid down lead us to decide this point with certainty, that the authority of these legislators does not extend so far, and that they ought to consider the fundamental laws as sacred, if the nation has not in very express terms given them the power to change them. For the constitution of the state ought to be fixed; and since that was first established by the nation, which afterwards trusted certain persons with the legislative power, the fundamental laws are excepted from their commission. It appears that the society had only resolved to make provision for the state's being always furnished with laws suited to particular conjunctures, and gave the legislature for that purpose, the power of abrogating the ancient civil and political laws, that were not fundamental, and of making new ones: but nothing leads us to think that it was willing to submit the constitution itself to their pleasure. When

trine is agreeable to the law of nature and nations, and to the divine dictates of natural and revealed religion. It is contrary to reason that the supreme power should have right to alter the constitution. This would imply, that those who are intrusted with Sovereignty by the

When a nation takes possession of a distant country, and settles a colony there, that country, though separated from the principal establishment, or mother country, naturally becomes a part of the state, equally with its antient possessions. Whenever the political laws, or treaties, make no distinction between them, every thing said of the territory of a nation, ought also to extend to its colonies."

D' Vattel.

"An act of parliament made against natural equity, as to make a man judge in his own cause, would be void: for *jura nature sunt immutabilia*, Hob. 87. Trin. 12. Jac. Day v. Savage S. C. and P. cited Arg. 10. Mod. 115. Hill. 11 Ann. C. B. in the case of Thornby and Fleetwood, "but says, that this must be a clear case, and judges will strain hard rather than interpret an act void, ab initio." *This is granted, but still their authority is not boundless, if subject to the controul of the judges in any case.*

"Holt, Chief justice, thought what Lord Coke says in Doctor Bonham's case a very reasonable and true saying, that if an act of parliament should ordain that the same person should be both party and judge in his own cause, it would be a void act of parliament, and an act of parliament can do no wrong, though it may do several things that look pretty odd: for it may discharge one from the allegiance he lives under, and restore to the state of nature; but it cannot make one that lives under a government both judge and party, *per Holt*. C. J. 12 Mod. 687, 688. Hill. 13. W. 3. B. R. in the case of the city of London v. Wood—It appears in our books, that in several cases the common law shall controul acts of parliament, and sometimes adjudge them to be utterly void; for when an act of parliament is against common *right* and *reason*, or repugnant or impossible to be performed, the common law shall controul it, and adjudge it to be void, and therefore 8 E. 3. 30. Thomas Tregor's case upon the statute of W. 2. Cap. 38. and Art. Sup. Chart. 9. Herle said that sometimes statutes made contrary to law and right, which the makers of them perceiving will not put them in execution, 8 Rep. 118 Hill. 7. J. Dr. Bonham's case.

the people, have a right to do as they please. In other words, that those who are invested with power to protect the people, and support their rights and liberties have a right to make slaves of them. This is not very remote from a flat contradiction. Should the parliament of Great-Britain follow the example of some other foreign states†, and vote the King absolute and despotic; would such an act of parliament make him so? Would any minister in his senses advise a Prince to accept of such an offer of power? It would be unsafe to accept of such a donation, because the parliament or donors would grant more than was ever in their power lawfully to give. The law of nature never invested them with a power of surrendering their own liberty; and the people certainly never intrusted any body of men with a power to surrender theirs in exchange for slavery‡.

It

† Sweden, Denmark, France, &c.

‡ "But if the whole State be conquered, if the nation be subdued, in what manner can the victor treat it without transgressing the bounds of justice? What are his rights over the conquest? Some have dared to advance this monstrous principle, that the conqueror is absolute master of his conquest; that he may dispose of it as his property, treat it as he pleases, according to the common expression of *treating a state as a conquered country*; and hence they derive one of the sources of despotic government: but enough of those that reduce men to the state of transferable goods, or use them like beasts of burthen, who deliver them up as the property or patrimony of another man. Let us argue on principles countenanced by reason and becoming humanity. The whole right of the conqueror proceeds from the just defence of himself, which contains the support and pro-

It is now near there hundred years since the continent of North-America was first discovered, and that by British subjects†. Ten generations have passed away through infinite toils and bloody conflicts in settling this country. None of those ever dreamed but that they were intitled, at least, to equal privileges with those of the same rank born within the realm.

British America has been hitherto distinguished from the slavish colonies round about it,

prosecution of his rights. Thus when he has totally subdued a nation with whom he had been at war, he may without dispute cause justice to be done him, with regard to what gave rise to the war, and require payment for the expence and damage he has sustained; he may according to the exigency of the case, impose penalties on it as an example, he may, should prudence so dictate, disable it from undertaking any pernicious designs for the future. But in securing all these views the mildest means are to be preferred. We are always to remember, that the law of nature permits no injury to be done to an enemy, unless in taking measures necessary for a just defence, and a reasonable security. Some princes have only imposed a tribute on it; others have been satisfied of stripping it of some privileges, dismembering a province, or keeping it in awe by fortresses; others as their quarrel was only with the sovereign in person, have left a nation in the full enjoyment of all its rights, only setting a sovereign over it. But if the conqueror thinks proper to retain the sovereignty of the vanquished state, and has such a right; the manner in which he is to treat the state still flows from the same principles. If the sovereign be only the just object of his complaint, reason declares that by his conquest he acquires only such rights as actually belonged to the dethroned sovereign, and on the submission of his people, he is to govern it according to the laws of the state. If the people do not voluntarily submit, the state of war subsists."

"When a sovereign as pretending to have the absolute disposal of a people whom he has conquered, is for enslaving them, he causes the state of war to subsist between this people and him."

Mr. D' Vattel, B. 3. C. 10. sec. 201.

† The Cabots discovered the Continent before the Spaniards.

it, as the fortunate Britons have been from most of their neighbours on the continent of Europe. It is for the interest of Great-Britain that her colonies should be ever thus distinguished. Every man must wilfully blind himself that don't see the immense value of our acquisitions in the late war; and that though we did not retain all at the conclusion of the peace that we obtained by the sword; yet our gracious Sovereign, at the same time that he has given a divine lesson of equitable moderation to the princes of the earth, has retained sufficient to make the British arms the dread of the universe, and his name dear to all posterity.

To the freedom of the British constitution, and to their increase of commerce, it is owing that our colonies have flourished without diminishing the inhabitants of the mother country; quite contrary to the effects of plantations made by most other nations, which have suffered at home, in order to aggrandize themselves abroad. This is remarkably the case with Spain. The subjects of a free and happy constitution of government, have a thousand advantages to colonize above those who live under despotic princes. We see how the British colonies on the continent, have out-grown those of the French, notwithstanding they have ever engaged the Savages to keep us back. Their advantages over us in the West-Indies, are among other causes perhaps, partly owing to these, 1. A capital neglect in former reigns, in suffering them to have a firm possession of so many valuable islands, that we had a better title to than they. 2. The French unable to push their

settlements effectually on the continent, have bent their views to the islands, and poured vast numbers into them. 3. The climate and business of these islands is by nature much better adapted to Frenchmen and to Negroes, than to Britons. 4. The labour of slaves, black or white, will be ever cheaper than that of freemen, because that of the individuals among the former, will never be worth so much as with the latter; but this difference is more than supplied; by numbers under the advantages abovementioned. The French will ever be able to sell their West-India produce cheaper than our own islanders: and yet while our own islanders can have such a price for theirs, as to grow much richer than the French, or any other of the King's subjects in America, as is the case, and what the northern colonies take from the French, and other foreign islands, centers finally in returns to Great-Britain for her manufactures, to an immense value, and with a vast profit to her: it is contrary to the first principles of policy to clog such a trade with duties, much more to prohibit it to the risque if not certain destruction of the fishery. It is allowed by the most accurate British writers on commerce, Mr. Postlethwait in particular, who seems to favour the cause of the sugar islands, that one half of the immense commerce of Great-Britain is with her colonies. It is very certain that without the fishery seven-eighths of this commerce would cease. The fishery is the center of motion, upon which the wheel of all the British commerce in America turns. Without the American trade, would Britain, as a commercial
state,

state, make any great figure at this day in Europe? Her trade in woollen and other manufactures, is said to be lessening in all parts of the world, but America, where it is increasing, and capable of infinite increase, from a concurrence of every circumstance in its favour. Here is an extensive territory of different climates, which in time will consume, and be able to pay for as many manufactures as Great-Britain and Ireland can make, if true maxims are pursued. The French, for reasons already mentioned, can underwork, and consequently undersell the English manufactures of Great-Britain in every market in Europe. But they can send none of their manufactures here: and it is the wish of every honest British American that they never may; it is best they never should; we can do better without the manufactures of Europe, save those of Great-Britain, than with them: But without the French West-India produce we cannot; without it our fishery must infallibly be ruined. When that is gone, our own islands will very poorly subsist. No British manufactures can be paid for by the colonists. What will follow? One of these two things, both of which it is the interest of Great-Britain to prevent. 1. The northern colonists must be content to go naked, and turn Savages; or, 2. Become manufacturers of linen and woollen, to clothe themselves; which, if they cannot carry to the perfection of Europe, will be very destructive to the interests of Great-Britain. The computation has been made, and that within bounds, and it can be demonstrated, that if North-America is only

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driven

driven to the fatal necessity of manufacturing a suit of the most ordinary linen or woollen for each inhabitant annually, which may be soon done, when necessity, the mother of invention, shall operate, Great-Britain and Ireland will lose two millions *per annum*, besides a diminution of the revenue to nearly the same amount. This may appear paradoxical, but a few years experience of the execution of the sugar act, will sufficiently convince the parliament not only of the inutility, but destructive tendency of it, while calculations may be little attended to. That the trade with the colonies has been of surprising advantage to Great-Britain, notwithstanding the want of a good regulation is past all doubt. Great-Britain is well known to have increased prodigiously both in numbers and in wealth since she began to colonize. To the growth of the plantations Britain is in a great measure indebted for her present riches and strength. As the wild wastes of America have been turned into pleasant habitations, and flourishing trading towns; so many of the little villages and obscure boroughs in Great-Britain have put on a new face, and suddenly started up, and become fair markets, and manufacturing towns, and opulent cities. London itself, which bids fair to be the metropolis of the world, is five times more populous than it was in the days of Queen Elizabeth. Such are the fruits of the spirit of commerce and liberty. Hence it is manifest how much we all owe to that beautiful form of civil government, under which we have the happiness to live.

It is evidently the interest, and ought to be the

the care of all those intrusted with the administration of government, to see that every part of the British empire enjoys to the full the rights they are entitled to by the laws, and the advantages which result from their being maintained with impartiality and vigour. This we have seen reduced to practice in the present and preceding reigns; and have the highest reason, from the paternal care and goodness, that his majesty, and the British parliament, have hitherto been graciously pleased to discover to all his Majesty's dutiful and loyal subjects, and to the colonists in particular, to rest satisfied, that our privileges will remain sacred and inviolate. The connection between Great-Britain and her colonies is so natural and strong, as to make their mutual happiness depend upon their mutual support. Nothing can tend more to the destruction of both, and to forward the measures of their enemies, than sowing the seeds of jealousy, animosity and dissention between the mother country and the colonies.

A conviction of the truth and importance of these principles, induced Great-Britain during the late war, to carry on so many glorious enterprizes for the defence of the colonies; and those on their part to exert themselves beyond their ability to pay, as is evident from the parliamentary reimbursements.

If the spirit of commerce was attended to, perhaps, duties would be every where decreased, if not annihilated, and prohibitions multiplied. Every branch of trade that hurts a community, should be prohibited, for the same reason that a private gentleman would break off commerce with a sharper or an extortioner

torfive usurer. It is to no purpose to higgle with such people, you are sure to lose by them. It is exactly so with a nation, if the balance is against them, and they can possibly subsist without the commodity, as they generally can in such cases, a prohibition is the only remedy; for a duty in such case, is like a composition with a thief, that for five shillings in the pound returned, he shall rob you at pleasure; when if the thing is examined to the bottom, you are at five shillings expence in travelling to get back your five shillings, and he is at the same expence in coming to pay it, so he robs you of but ten shillings in the pound, that you thus wisely compound for. To apply this to trade, I believe every duty that was ever imposed on commerce, or in the nature of things can be, will be found to be divided between the state imposing the duty, and the country exported from. This, if between the several parts of the same kingdom or dominions of the same Prince, can only tend to embarrass trade, and raise the price of labour above other states, which is of very pernicious consequence to the husbandman, manufacturer, mariner and merchant, the four tribes that support the whole hive. If your duty is upon a commodity of a foreign state, it is either upon the whole useful and gainful, and therefore necessary for the husbandman, manufacturer, mariner or merchant, as finally bringing a profit to the state by a balance in her favour; or the importation will work a balance against your state. There is no medium that we know of. If the commodity is of the former kind, it should be prohibited; but if the latter, im-
porte

ported duty free; unless you would raise the price of labour by a duty on necessaries, or make the above wise composition for the importation of commodities you are sure to lose by. The only test of a useful commodity is the gain upon the whole to the state; such should be free; the only test of a pernicious trade is the loss upon the whole, or to the community; this should be prohibited. If therefore it can be demonstrated that the sugar and molasses trade from the northern colonies to the foreign plantations is upon the *whole* a loss to the *community*, by which term is here meant the three kingdoms and the British dominions taken collectively, then, and not till then, should this trade be prohibited. This never has been proved, nor can be; the contrary being certain, to wit, that the nation upon the whole hath been a vast gainer by this trade, in the vend of and pay for its manufactures; and a great loss by a duty upon this trade will finally fall on the British husbandman, manufacturer, mariner and merchant, and consequently the trade of the nation be wounded, and in constant danger of being eat out by those who can undersell her.

The art of underselling, or rather of finding means to undersell, is the grand secret of thrift among commercial states, as well as among individuals of the same state. Should the British sugar islands ever be able to supply Great-Britain and her northern colonies with those articles, it will be time enough to think of a total prohibition; but until that time, both prohibition and duty will be found to be diametrically opposite to the first principles of policy.

policy. Such the extent of this continent, and the increase of its inhabitants, that if every inch of the British sugar islands was as well cultivated as any part of Jamaica or Barbadoes, they would not now be able to supply Great-Britain, and the colonies on this continent. But before such farther improvements can be supposed to take place in our islands, the demands will be proportionably increased by the increase of the inhabitants on the continent. Hence the reason is plain why the British sugar planters are growing rich, and ever will, because the demand for their produce has, and ever will be greater than they can possibly supply, so long as the English hold this continent, and are unrivalled in the fishery.

We have every thing good and great to hope from our gracious Sovereign, his Ministry and his Parliament; and trust that when the services and sufferings of the British American colonies are fully known to the mother country, and the nature and importance of the plantation trade more perfectly understood at home, that the most effectual measures will be taken for perpetuating the British empire in all parts of the world. An empire built upon the principles of justice, moderation and equity, the only principles that can make a state flourishing, and enable it to elude the machinations of its secret and inveterate enemies.

P. S. By antient and modern gods, *P. 10.* I mean, all idols, from those of Old Egypt, to the canonized monsters of modern Rome; and by king-craft and priest-craft, civil and ecclesiastic polity, as administered in general till the revolution. I now recollect that I have been credibly informed, that the British Sugar colonists are humane towards their slaves, in comparison with the others. Therefore in page 29, let it be read, foreign Sugar-Islanders and foreign Creoles.

F I N I S.

13
CONSIDERATIONS

ON THE

PROPRIETY

OF IMPOSING

TAXES

IN THE

British COLONIES,

For the Purpose of raising a REVENUE, by
ACT OF PARLIAMENT.

By *Daniel Dulany*.

THE SECOND EDITION.

— *Haud Totum Verba resignent*
Quod latet arcanâ, non enarrabile, fibrâ.

NORTH-AMERICA PRINTED:
LONDON, Re-printed for J. ALMON, opposite
Burlington-House, Piccadilly. MDCCLXVI.

*First published at An-
napolis, Maryland, Octo-
ber, 14th, 1765.*

CONSIDERATIONS

ON THE

PROPERTY

OF AMERICAN

IN THE

IN THE

BRITISH COLONIES

FOR THE PURPOSE OF RAISING A REVENUE

ACT OF PARLIAMENT

THE SECOND EDITION

IN NORTH AMERICA PRINTED

LONDON: Printed for J. Almon, opposite

St. Dunstons Church, Fleet Street, MDCCLXXV

Per 14. 1795

P R E F A C E.

IT would, now, be an unfashionable Doctrine, whatever the ancient Opinion might be, to affirm that the Constituent can bind his Representative by Instructions; but though the obligatory Force of these Instructions is not insisted upon, yet their persuasive Influence, in most Cases, may be; for a Representative, who should act against the explicit Recommendation of his Constituents, would most deservedly forfeit their Regard and all Pretension to their future Confidence.

When it is under Deliberation, whether a new Law shall be Enacted, in which the Electors of England are interested, THEY have Notice of it, and an Opportunity of declaring their Sense.—THEY may point out every dangerous Tendency, and are not restrained in their Representations, from shewing in the plainest Language, the Injustice or Oppression of it.

When a Law in its Execution is found to be repugnant to the Genius of Liberty, or productive of Hardships or Inconvenience, THEY may also instruct their Deputies to exert Themselves in procuring a Repeal of

P R E F A C E.

it, and in the Exercise of this Right are not constrained to whine in the Style of bumble Petitioners.—

THEY are exposed to no Danger in explaining their Reasons—THEIR Situation does not become so delicate as to make it prudent, to weaken, by not urging them, with their full Force, and to their utmost Extent. But who are the Representatives of the Colonies? To whom shall THEY send their Instructions, when desirous to obtain the Repeal of a Law striking at the Root and Foundation of every Civil Right, should such an one take Place? Instructions to all the Members who compose the House of Commons would not be proper. To them the Application must be by Petition, in which an unreserved Style would, probably, be deemed Indecency, and strong Expressions Insolence, in which a Claim of Rights may not, perhaps, be explained, or even insinuated, if to impugn or glance at their Authority whose Relief is supplicated. To soften and deprecate must be the Hope and Endeavour, though a guiltless Freeman would, probably, be awkward in ringing all the Changes of Parce, Precor.

Under these Circumstances, the Liberty of the Press is of the most momentous Consequence, for if Truth is not allowed to speak thence in its genuine Language of Plainness and Simplicity, nor Freedom to vindicate its Privileges with decent Firmness, we shall have too much Reason to acknowledge his Foresight who predicted, that “the Constitution of the British Government was too excellent to be permanent.” The Train for
the

PREFACE.

*the Accomplishment of that Prophecy hath not yet
catch'd in America, nor, I trust, been laid.*

*That there have been Laws extremely unjust and op-
pressive, the Declarations of subsequent Parliaments,
fixing this Stigma upon them, evince; but whilst the
Power which introduced them prevailed, it was not
prudent to give them their deserved Characters. The
Parliament of Henry III, or that of Henry VI, need
not be cited; there are many other Instances, though
not branded with Epithets so remarkably oppro-
brious.*

*In the Opinion of a great Lawyer, an Act of Par-
liament may be void, and of a great Divine, "all
" Men have natural, and Freemen legal Rights;
" which they may justly maintain, and no legislative
" Authority can deprive them of."*

*Cases may be imagined in which the Truth of these
Positions might, in Theory, be admitted; but in
Practice, unless there should be very peculiar Circum-
stances, such as cannot be supposed to exist during the
Prevalence of the Power that introduced it, who
would rely upon the Authority of Opinions, or the
Principles of them, for his Protection against the
Penalties of any positive Law?*

*When the Judges were asked by Henry VIII, Whe-
ther a Man might be attainted of High Treason by
Parliament, though not called to answer, they declared
that it was a dangerous Question, and gave the eva-*

PREFACE.

five Answer that, "the High Court of Parliament
"ought to give Examples of Justice to the inferior
"Courts, none of which could do the like." But
though it might be dangerous to declare against the Au-
thority of Parliament, we are not bound to acknow-
ledge its Inerrability, nor precluded from examining
the Principles and Consequences of Laws, or from
pointing out their Improprieties, and Defects. Upon
this Ground I have proceeded in the following Con-
siderations, and shall not be disappointed if they should
appear to be too free, or too reserved, to Readers of
different Complexions.

● VIRGINIA, AUGUST 12, 1765.

CONSIDERATIONS, &c.

IN the Constitution of *England*, the Three principal Forms of Government, Monarchy, Aristocracy and Democracy, are blended together in certain Proportions ; but each of these Orders, in the Exercise of the legislative Authority, hath its peculiar Department, from which the other are excluded. In this Division, the *Granting of Supplies*, or *Laying Taxes*, is deemed to be the Province of the House of Commons, as the Representative of the People.--All Supplies are supposed to flow from their Gift ; and the other Orders are permitted only to assent, or reject generally, not to propose any Modification, Amendment, or partial Alteration of it.

This Observation being considered, it will undeniably appear, that, in framing the late *Stamp Act*, the Commons acted in the Character of Representative of the Colonies. They assumed it as the Principle of that Measure, and the *Propriety* of it must therefore stand, or fall, as the Principle is true, or false : For the Preamble sets forth, That the Commons of *Great Britain* had resolved to *Give and Grant* the several Rates and Duties imposed by the Act ; but what Right had the Commons of *Great Britain* to be thus munificent at the

Expence of the Commons of *America*?——To give Property, not belonging to the Giver, and without the Consent of the Owner, is such evident and flagrant Injustice, in *ordinary Cases*, that few are hardy enough to avow it; and therefore, when it really happens, the Fact is disguised and varnished over by the most plausible Pretences the Ingenuity of the Giver can suggest.——But it is alledged that there is a *Virtual*, or *implied Representation* of the Colonies springing out of the Constitution of the *British* Government: And it must be confessed on all Hands, that, as the Representation is not actual, it is virtual, or it doth not exist at all; for no third Kind of Representation can be imagined. The Colonies claim the Privilege, which is common to all *British Subjects*, of being taxed *only* with their own Consent given by their Representatives, and all the Advocates for the *Stamp Act* admit this Claim. Whether, therefore, upon the whole Matter, the Imposition of the *Stamp Duties* is a *proper* Exercise of Constitutional Authority, or not, depends upon the single Question, Whether the Commons of *Great-Britain* are *virtually* the Representatives of the Commons of *America*, or not.

The Advocates for the Stamp Act admit, in express Terms, that “the Colonies do not chuse Members of Parliament,” but They assert that “the Colonies are *virtually* represented in the same Manner with the Non-Electors resident in *Great Britain*.”

How have They proved this Position? Where have They defined, or precisely explained what They mean by the Expression, *Virtual Representation*? As it is the very Hinge upon which the Rectitude of the Taxation turns, something more satisfactory

satisfactory than mere Assertion, more solid than a Form of Expression, is necessary; for, how can it be seriously expected, that Men, who think Themselves injuriously affected in their Properties and Privileges, will be convinced and reconciled by a fanciful Phrase, the meaning of which can't be precisely ascertained by those who use it, or properly applied to the Purpose for which it hath been advanced.

They argue, that “ the Right of Election being
 “ annexed to certain Species of Property, to Franchises and Inhabitaney in some particular Places,
 “ a very small Part of the Land, the Property, and
 “ the People of *England* is comprehended in those
 “ Descriptions. All Landed Property, not Freehold, and all Monied Property, are *excluded*.
 “ The Merchants of *London*, the Proprietors of
 “ the Public Funds, the Inhabitants of *Leeds*,
 “ *Halifax*, *Birmingham*, and *Manchester*, and that
 “ great Corporation of the *East India* Company,
 “ *None of Them* chuse their Representatives, and
 “ yet are They all represented in Parliament, and
 “ the Colonies being *exactly* in *their* Situation, are
 “ represented in the *same* Manner.”

Now this Argument, which is all that their Invention hath been able to supply, is totally defective; for, it consists of Facts not true, and of Conclusions inadmissible.

It is so far from being true, that all the Persons enumerated under the Character of *Non-Electors*, are in that Predicament, that it is indubitably certain there is *no* Species of Property, landed, or monied, which is not possessed by *very many* of the *British Electors*.

I shall undertake to disprove the supposed Similarity of Situation, whence the same Kind of Representation is deduced of the Inhabitants of the Colonies, and of the *British* Non-Electors; and, if I succeed, the Notion of a *virtual Representation* of the Colonies must fail, which, in Truth, is a mere Cob-web, spread to catch the unwary, and intangle the weak. I would be understood. I am upon a Question of *Propriety*, not of Power; and, though some may be inclined to think it is to little Purpose to discuss the one, when the other is irresistible, yet are They different Considerations; and, at the same Time that I invalidate the Claim upon which it is founded, I may very consistently recommend a Submission to the Law, whilst it endures. I shall say Nothing of the Use I intend by the Discussion; for, if it should not be perceived by the Sequel, there is no Use in it, and, if it should appear then, it need not be premised.

Lessees for Years, Copyholders, Proprietors of the Public Funds, Inhabitants of *Birmingham, Leeds, Hallifax, and Manchester*, Merchants of the City of *London*, or Members of the Corporation of the *East India* Company, are, *as such*, under no personal Incapacity to be Electors; for they may acquire the Right of Election, and they are *actually* not only a considerable Number of Electors in each of the Classes of Lessees for Years, &c. but in many of them, if not all, even Members of Parliament. The Interests therefore of the Non-Electors, the Electors, and the Representatives, are individually the same; to say nothing of the Connection among Neighbours, Friends, and Relations. The Security of the Non-Electors against Oppression, is, that their Oppression will fall also upon the Electors and the Representatives. The one can't be injured, and the other indemnified.

Further,

Further, if the Non-Electors should not be taxed by the *British* Parliament, They would not be taxed *at all*; and it would be iniquitous, as well as a Solecism, in the political System, that They should partake of all the Benefits resulting from the Imposition, and Application of Taxes, and derive an Immunity from the Circumstance of not being qualified to vote. Under this Constitution then, a double or virtual Representation may be reasonably supposed.—The Electors, who are inseparably connected in their Interests with the Non-Electors, may be justly deemed to be the Representatives of the Non Electors, at the same Time They exercise their personal Privilege in their Right of Election, and the Members chosen, therefore, the Representatives of both. This is the only rational Explanation of the Expression, *virtual Representation*. None has been advanced by the Assertors of it, and their Meaning can only be inferred from the Instances, by which They endeavour to elucidate it, and no other Meaning can be stated, to which the Instances apply.

It is an essential Principle of the *English* Constitution, that the Subject shall not be taxed without his Consent, which hath not been introduced by any particular Law, but necessarily results from the Nature of that mixed Government; for, without it, the Order of Democracy could not exist.

Parliaments * were not formerly so regular in Point of Form as they now are. Even the number of Knights for each Shire were not ascertained. The first Writs now extant for their Choice,

* See Treat. Peerage.

are 22nd *Edward I*, by which, Two, as at this Day, were directed to be chosen for each County; but the King not being satisfied with that Number, other Writs were issued for chusing Two more. This discretionary Power being thought inconvenient, was afterwards restrained by the Statutes of *Richard II*, *Henry IV*, and subsequent Acts.

In earlier Times there was more Simplicity in the Rules of Government, and Men were more solicitous about the Essentials, than the Forms of it. When the Consent of those who were to perform, or pay any Thing extra-feudal, was fairly applied for and obtained, the Manner was little regarded; but, as the People had reason to be jealous of Designs to impose Contributions upon Them without their Consent, it was thought expedient to have Formalities regulated, and fixed, to prevent this Injury to their Rights, not to destroy a Principle, without which, They could not be said to have any Rights at all.

Before the Introduction of those Formalities, which were framed with a View to restrain the Excursions of Power, and to secure the Privileges of the Subject, as the Mode of Proceeding was more simple, so perhaps this Foundation of Consent was more visible than it is at present, wherefore it may be of Use to adduce some Instances, which directly point out this necessary and essential Principle of *British Liberty*.

The Lords and Commons have separately given Aids and Subsidies to the Crown. In 13th *Edward III*, the Lords granted the Tenth of all the Corn, &c. growing upon their Demesnes, the Commons then granting Nothing, nor concerning Them-

Themselves with what the Lords thought fit to grant out of their own Estates.—At other Times, the Knights of Shires, separating from the Rest of the Commons, and joining with the Lords, have granted a Subsidy, and the Representatives of Cities and Boroughs have likewise granted Subsidies to the Crown separately, as appears by a Writ in 24th *Edward I*, which runs in these Words: *Rex, &c.—Cum Comites, Barones, Milites Nobis, &c. fecerunt undecimam de omnibus Bonis suis mobilibus, et Cives et Burgenses, &c. septimam de omnibus Bonis suis mobilibus, &c. nobis curialiter concesserint, &c.*—When an Affair happened, which affected only some Individuals, and called for an Aid to the Crown, it was common for those Individuals *alone* to be summoned; to which Purpose several Writs are extant. In the 35th *Edward III*, there is a Writ (which *Dugdale* has printed in his Collection of Writs of Summons to Parliament) directed to the Earl of *Northampton*, which after reciting the Confusion the Affairs of *Ireland* were in, and that he, and some other *English* Lords had Possessions in that Kingdom, and were therefore more particularly obliged to the Defence of it, follows in these Words: *Volumus Vobiscum, et cum aliis de eodem Regno (Angliæ scilicet) Terras in dictâ Terrâ habentibus Colloquium habere, &c.*

But, that the Reader may perceive how strictly the Principle of no Persons being taxed without their Consent, hath been regarded, it is proper to take Notice, that, upon the same Occasion, Writs were likewise directed even to Women, who were Proprietors of Land in *Ireland*, to send their Deputies to consult, and consent to what should be judged necessary to be done on the Occasion;

e. g.

e. g. *Rex, &c.—Mariæ, &c. Salutem, &c. Vobis, &c. Mandamus quod aliquem, vel aliquos de quibus confidatis apud Westmon. mittatis ad loquendum nobiscum super dictis Negotiis, et ad faciendum et consentiendum Nomine vestro, super hoc quod ibidem ordinari contigerit.*

A Reflection naturally arises from the Instances cited.—When, on a particular Occasion, *some* Individuals *only* were to be taxed, and not the *whole* Community, *their* Consent *only* was called for, and in the last Instance it appears, that they, who upon an Occasion of a general Tax, would have been bound by the Consent of their *virtual Representatives* (for in that Case they would have had no *actual Representatives*) were in an Affair calling for a *particular* Aid from them, *separate* from the rest of the Community, required to send their *particular Deputies*: But how different would be the Principle of a Statute, imposing Duties without *their* Consent who are to pay them upon the Authority of *their* Gift, who should undertake to give, what doth not belong to them.

That great King *Edward I.*, inserted in his Writ of Summons, as a first Principle of Law, that *quod omnes tangat ab omnibus approbetur*, which by no Torture can be made to signify that their Approbation or Consent *only* is to be required in the Imposition of a Tax, who are to pay *no* Part of it.

The Situation of the Non-Electors in *England*—their Capacity to become Electors—their inseparable Connection with those who are Electors, and their Representatives—their Security against
Op-

Oppression resulting from this Connection, and the Necessity of imagining a double or virtual Representation, to avoid Iniquity and Absurdity, have been explained—The Inhabitants of the Colonies are, *as such*, incapable of being Electors, the Privilege of Election being exerciseable only in Person, and therefore if *every* Inhabitant of *America*, had the requisite Freehold, not *one* could vote, but upon the Supposition of his ceasing to be an Inhabitant of *America*, and becoming a Resident in *Great-Britain*, a Supposition which would be impertinent, because it shifts the Question—Should the Colonies not be taxed by *Parliamentary Impositions*, their respective Legislatures have a regular, adequate, and constitutional Authority to Tax them, and therefore there would not necessarily be an iniquitous and absurd exemption, from their not being represented by *the House of Commons*.

There is not that intimate and inseparable Relation between the *Electors* of Great-Britain and the *Inhabitants of the Colonies*, which must inevitably involve both in the same Taxation; on the contrary, not a single *actual* Elector in *England*, might be immediately affected by a Taxation in *America*, imposed by a Statute which would have a general Operation and Effect, upon the Properties of the Inhabitants of the Colonies. The latter might be oppressed in a Thousand Shapes, without any Sympathy, or exciting any Alarm in the former. Moreover, even Acts, oppressive and injurious to the Colonies in an extreme Degree, might become popular in *England*, from the Promise or Expectation, that the very Measures which depressed the Colonies, would

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give Ease to the Inhabitants of *Great-Britain*. It is indeed true, that the Interests of *England* and the Colonies are allied, and an Injury to the Colonies produced into all its Consequences, will eventually affect the Mother Country, yet these Consequences being generally remote, are not at once foreseen; they do not immediately alarm the Fears, and engage the Passions of the *English* Electors, the Connection between a Freeholder of *Great Britain*, and a *British American* being deducible only through a Train of Reasoning, which few will take the Trouble, or can have an Opportunity, if they have Capacity, to investigate; wherefore the Relation between the *British Americans*, and the *English Electors*, is a Knot too infirm to be relied on as a competent Security, especially against the Force of a present, counter-acting Expectation of Relief.

If it would have been a just Conclusion, that the Colonies being exactly in the *same* Situation with the *Non-Electors* of *England*, are *therefore* represented in the *same* Manner, it ought to be allowed, that the Reasoning is solid, which, after having evinced a total *Dissimilarity* of Situation, infers that their Representation is *different*.

If the Commons of *Great-Britain* have no Right by the Constitution, to GIVE AND GRANT Property *not* belonging to themselves but to others, without their Consent actually or virtually given—If the Claim of the Colonies not to be taxed *without their Consent*, signified by their Representatives, is well founded, if it appears that the Colonies are not actually represented by the Commons of *Great-Britain*, and that the Notion of a double

double or virtual Representation, doth not with any Propriety apply to the People of *America*; then the Principle of the *Stamp Act*, must be given up as indefensible on the Point of Representation, and the Validity of it rested upon the *Power* which they who framed it, have to carry it into Execution.

“ Should the Parliament devise a Tax, to be
 “ paid only by those of the People in *Great-Bri-*
 “ *tain*, who are neither Members of either House
 “ of Parliament, nor their Electors, such an Act
 “ would be unjust and partial,” saith the Author
 of the Claim of the Colonies, &c. who yet al-
 lows that the “ Non-Electors would have a Secu-
 “ rity against the Weight of such a Tax, should
 “ it be imposed, which the Colonies have not,
 “ viz. That the Members of Parliament and their
 “ Electors, must be relatively affected by it; but
 “ the industrious *North-American*, and the opu-
 “ lent *West-Indian* may have their Properties tax-
 “ ed, and no Individual in *Great Britain* partici-
 “ pate with them in the Burden : On the con-
 “ trary, the Members of Parliament would make
 “ their Court to their Constituents most effectual-
 “ ly, by multiplying Taxes upon the Subjects of
 “ the Colonies.”

Is it not amazing that the above Author, *with these Sentiments*, should undertake the Defence of the Stamp Duties, which, by his own Concession, appear to be *more* unjust, and *more* partial than the Tax he supposes, and upon which he bestows, very properly, the Epithets of *unjust* and *partial*.

—*Diluit Helleborum, certò compefcere Puncta
Nefcius Examen.*

But it has been objected, that if the Inhabitants of *America*, because represented in their respective Affemblies, are *therefore* exempted from a *Parliamentary Tax*, then the Citizens of *London*, who are represented in their Common Council, may plead the *same Immunity*. If it were not for the Authority upon which this Objection is urged, it might be safely passed over without a particular Answer; but ſince it hath been introduced with an Appearance of Reliance, and the Opinion which it retails, is ſaid to have been delivered with great Gravity, and pronounced with decifive Confidence, I would not be ſo wanting in Reſpect to an eminent Character, as to neglect the Ceremony of a direct Refutation.

But I muſt obſerve that, when the Opinion of a Lawyer is taken in a Matter of private Concern, in which he is under no Bias to deceive, a concise Declaration of it may generally ſuffice; he who applies for it being generally obliged to depend upon his Council's Character of Integrity and Knowledge, not only becauſe the Expence of a methodical and minute Diſcuſſion would be too Burthenſome, but becauſe the Force of legal Reasoning is not generally underſtood. But in a Queſtion of public Concernment, the Opinion of no *Court Lawyer*, however reſpectable for his Candour and Abilities, ought to weigh more than the Reaſons adduced in Support of it. They ought to be explained, they may be examined. Conſidering his Temptations, Credit ought to be cautiously

tiously and diffidently given, to his Assertion of what is his Opinion.—Considering the Consequence of a Decision, not to one Man only, but to Millions that exist and Myriads that may exist, and the exceeding Fallibility of legal Knowledge, nothing short of clear Conviction, after the fullest Explication of the Reasons of the Opinion, and the most accurate and intense Consideration of their Validity, can justify an Acquiescence under it.

On the present Occasion, so immensely important, *Nullius additus jurare in Verba Magistri*, I shall pin my Faith upon the *Dictum* of no Lawyer in the Universe, and when his *ipse dixit* is authoritatively urged, I shall be at no Pains to repress my Suspicions that his Reasons are concealed, because, if fairly produced and held up to the Light, many Flaws in them would be discovered by a careful Examiner. I have lived long enough to remember many Opinions of *Court Lawyers* upon *American Affairs*; they have been all strongly marked with the same Character; they have been generally very sententious, and the same Observation may be applied to them all.—They have all declared *that* to be *legal*, which the Minister for the Time being has deemed to be *expedient*. The Opinion given by a General of the Law in the late War on the Question, Whether Soldiers might be quartered on private Houses in *America*, must be pretty generally remembered.

The very learned Gentleman has, it seems, declared that, “ upon mature Deliberation, he has
“ formed his Opinion, that the Colonies are in
“ their Nature, no more than Common Corpora-
“ tions, and that the Inhabitants of a Colony
“ are no more entitled to an Exemption from Par-
“ liamentary

“liamentary Taxations, because represented in
 “an *American* Assembly, than the Citizens of
 “*London*.”

The Objection having been stated, the Answer
 is obvious and clear.

The Colonies have a compleat and adequate
 legislative Authority, and are not only represented
 in their Assemblies, but in *no other Manner*. The
 Power of making Bye-Laws vested in the Com-
 mon Council is inadequate and incomplete, being
 bounded by a few particular Subjects; and the
 Common Council are actually represented too,
 by having a Choice of Members to serve in Par-
 liament. How then can the Reason of the Ex-
 emption from internal parliamentary Taxations,
 claimed by the Colonies, apply to the Citizens of
London?

The Power described in the Provincial Charters
 is to make Laws, and in the Exercise of that
 Power, the Colonies are bounded by no other Li-
 mitations that what result from their Subordina-
 tion to, and Dependance upon *Great-Britain*. The
 Term *Bye-Laws* is as novel, and improper, when
 applied to the *Assemblies*, as the Expression *Acts*
of Assembly would be, if applied to the *Parliament*
of Great-Britain, and it is as absurd and insensible,
 to call a Colony a Common Corporation, because
 not an independent Kingdom, and the Powers of
 each to make Laws and Bye-Laws, are limited,
 though not comparable in their Extent, and the
 Variety of their Objects, as it would be to call
Lake Erie, a *Duck-puddle*, because not the Atlan-
 tic Ocean.

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Should the Analogy between the *Colonies* and *Corporations* be even admitted for a Moment, in order to see what would be the Consequence of the *Postulatum*, it would only amount to this, The *Colonies* are vested with as compleat Authority to all Intents and Purposes to Tax themselves, as any *English Corporation* is to make a Bye-Law, in any imaginable Instance for any local Purpose whatever, and the *Parliament* doth not make Laws for *Corporations* upon Subjects, in every Respect proper for *Bye-Laws*.

But I do not rest the Matter upon this, or any other Circumstance, however considerable to prove the Impropriety of a Taxation by the *British Parliament*. I rely upon the Fact, that not one Inhabitant in any Colony is, or can be *actually* or *virtually* represented by the *British House of Commons*, and therefore, that the Stamp Duties are severely imposed.

But it has been alledged, that if the Right to *Give and Grant* the Property of the Colonies by an internal Taxation is denied to the House of Commons, the Subordination or Dependence of the Colonies, and the Superintendence of the *British Parliament* cannot be consistently established—That any supposed Line of Distinction between the two Cases, is but “ a whimsical Imagination, “ a chimerical Speculation against Fact and Experience.” Now, under Favour, I conceive there is more Confidence, than Solidity in this Assertion, and it may be satisfactorily and easily proved, that the Subordination and Dependence of the Colonies may be preserved, and the *supreme Authority* of the Mother Country be firmly supported, and yet the Principle of Representation, and the Right of the *British House of Commons* flowing

flowing from it, to Give and Grant the Property of the Commons of *America*, be denied.

The Colonies are dependant upon *Great-Britain*, and the supreme Authority vested in the King, Lords, and Commons, may justly be exercised to secure, or preserve their Dependence, whenever necessary for that Purpose. This Authority results from, and is implied in the Idea of the Relation subsisting between *England* and her Colonies; for, considering the Nature of human Affections, the Inferior is not to be trusted with providing Regulations to prevent his Rising to an Equality with his Superior. But, though the Right of the Superior to use the proper Means for preserving the Subordination of his Inferior is admitted, yet it does not necessarily follow, that he has a Right to seize the Property of his Inferior when he pleases, or to command him in every Thing, since, in the Degrees of it, there may very well exist a *Dependance* and *Inferiority*, without absolute *Vassalage* and *Slavery*. In what the Superior may *rightfully* controul, or compel, and in what the Inferior ought to be at Liberty to act without Controul or Compulsion, depends upon the Nature of the Dependance, and the Degree of the Subordination; and, these being ascertained, the Measure of Obedience, and Submission, and the Extent of the Authority and Superintendence will be settled. When Powers, compatible with the Relation between the Superior and Inferior, have, by express Compact, been granted to, and accepted by the latter, and have been, after that Compact, repeatedly recognized by the former—When They may be exercised effectually upon every Occasion without any Injury to that Relation, the Authority of the Superior cannot properly interpose; for, by the Powers vested in the Inferior, is the Superior limited.

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By their Constitutions of Government, the Colonies are impowered to impose internal Taxes. This Power is compatible with their Dependance, and hath been expressly recognized by *British* Ministers and the *British* Parliament, upon many Occasions; and it may be exercised effectually without striking at, or impeaching, in any Respect, the Superintendence of the *British* Parliament. May not then the Line be distinctly and justly drawn between such Acts as are necessary, or proper, for preserving or securing the Dependance of the Colonies, and such as are not necessary or proper for that very important Purpose?

When the Powers were conferred upon the Colonies, they were conferred too as Privileges and Immunities, and accepted as such; or, to speak more properly, the Privileges belonging necessarily to Them as *British* Subjects, were solemnly declared and confirmed by their Charters, and They who settled in *America* under the Encouragement and Faith of these Charters, understood, not only that They *might*, but that it was their *Right* to exercise those Powers without Controul, or Prevention. In some of the Charters the Distinction is expressed, and the strongest Declarations made, and the most solemn Assurances given that the Settlers should not have their Property taxed without their own Consent by their Representatives, though their legislative Authority is limited at the same Time, by the Subordination implied in their Relation, and They are therefore restrained from making Acts of Assembly repugnant to the Laws of *England*, and, had the Distinction not been expressed, the Powers given would have implied it, for, if the Parliament may in any Case interpose, when the Authority of the Colonies is adequate to the

Occasion, and not limited by their Subordination to the Mother Country, it may in every Case, which would make *another* Appellation more proper to describe their Condition, than the Name by which their Inhabitants have been usually called, and have gloried in.

Because the Parliament may, when the Relation between *Great Britain* and her Colonies calls for an Exertion of her Superintendence, bind the Colonies by Statute, therefore a Parliamentary Interposition in every other Instance, is justifiable, is an Inference that may be denied.

On some Emergencies, the King, by the Constitution, hath an absolute Power to provide for the Safety of the State, to take Care, like a *Roman Dictator*, *ne quid Detrimenti capiat Respublica*, and this Power is not specifically annexed to the Monarchy by any express Law; it necessarily results from the End and Nature of Government: but who would infer from this, that the King, in every Instance, or upon every Occasion, can, upon the Principles of the Constitution, exercise this supreme Power?

The *British Ministers* have, in the most effectual Terms, at different Periods, from the Reign of *Charles II*, to that of the present King, recognized this Distinction in their Requisitions, transmitted to the Colonies to raise and levy Men and Money, by Acts of Assembly; and recently, in the Course of the last War, they were so far from thinking that it was proper for the *British House of Commons* to Give and Grant the Property of the Colonies to support the military Operations in *America*, upon which not only the immediate Protection of that

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Part of the *British Dominions*, but the most important Interests, perhaps the ultimate Preservation of *Great Britain* from Destruction, essentially depended; I say, on this great Occasion of the most important, and national Concernment, the *British Ministers* were so far from calling upon the *House of Commons*, in their *peculiar* Department, to Give and Grant Property, belonging neither to Themselves, nor their Constituents, that They directly applied to the *Colonies* to tax Themselves, in Virtue of the Authority and Privilege conferred by their Charters, and promised to recommend it to the *British Parliament* to grant them a proper Compensation for the Expence They should incur in providing for the general Service.—They made good their Promise; and, if all the Money raised in the Colonies, by Acts of Assembly, in pursuance of the Requisitions of the *British Ministers*, hath not been repaid by Parliament, a very considerable Part of it hath.

Could They, who made the Requisitions I have mentioned, or the Assemblies that complied with them, intend, or imagine the Faith of the *English* Government was to be preserved by a Retribution, at one Time, of the Money disbursed at the Instance, and upon the Credit of the *British Ministry*, enforced and supported by *Royal Assurances*, and by taking it back again at another Time? Is this Method of keeping the Faith of Government to be ranked among the “Improvements which have
 “ been made beyond the Idea of former Admin-
 “ nistrations, conducted by Ministers ignorant
 “ of the Importance of the Colonies, or who
 “ impotently neglected their Concerns, or were
 “ diverted by mean Pursuits, from attending to
 “ Them?” Is it absolutely certain, that there never can, at any future Period, arise a Crisis, in

which the Exertion of the Colonies may be necessary, or, if there should, that it will bring with it an Oblivion of all former Indirection?—But this is a Subject fitter for silent Meditation, than public Discussion.

There was a Time when Measures of Prevention might have been taken by the Colonies.—There may be a Time when Redress may be obtained—Till then, Prudence, as well as Duty, require Submission.

It is presumed that it was a notable Service done by *New England*, when the Militia of that Colony reduced *Cape Breton*, since it enabled the *British Ministers* to make a Peace less disadvantageous and inglorious than They otherwise must have been constrained to submit to, in the humble State to which they were then reduced.—That the general Exertion of *the Colonies in North America*, during the last War, not only facilitated, but was indispensably requisite to the Success of those Operations by which so many glorious Conquests were achieved, and that those Conquests have put it in the Power of the present illustrious Ministers to make a Peace upon Terms of so much Glory and Advantage, as to afford an inexhaustible Subject during their Administration, and the Triumph of Toryism, at least, for their ingenious Panegyrists to celebrate.

An *American*, without justly incurring the Imputation of Ingratitude, may doubt whether some other Motive, besides pure Generosity, did not prompt the *British Nation* to engage in the Defence of the Colonies.—He may be induced to think that the Measures taken for the Protection of the Plantations, were not only connected with
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the Interests, but even necessary to the Defence of *Great Britain* herself, because he may have Reason to imagine that *Great Britain* could not long subsist as an independent Kingdom after the Loss of her Colonies.—He may, without Arrogance, be inclined to claim some Merit from the Exertion of the Colonies, since it enabled *Great Britain* ultimately to defend herself; I mean that Kind of Merit which arises from Benefits done to others, by the Operation of Measures taken for our own Sakes—a Merit most illustriously displayed in the Generosity of *Great Britain*, when, with their Co-operation, she protected the Colonies to preserve herself.

When an House is in Flames, and the next Neighbour is extremely active, and exerts his Endeavours to extinguish the Fire, which, if not conquered, would catch, and consume his own Dwelling, I do not say, that if the Owner of the House which had been in Flames, should, after the Fire was subdued, complaisantly thank his Neighbour generally for his Services, he would be absurdly ceremonious; but, if the Assistant should afterwards boast of his great Generosity, and claim a Right to the Furniture of the House which he had assisted in Saving, upon the Merit of his Zeal and Activity, he would deserve to be put in Mind of the Motive of his Service.

If the Advantages gained by the late *most glorious and successful War* have been secured by an *adequate Peace*—If the Successes that attended the military Operations of the *British Arms*, were the Effect of the conjunct Efforts of the *British Nation* and her *Colonies*, roused by the Spirit, excited by the Virtue, animated by the Vigour, and conducted by the Wisdom of the ablest Minister that
ever

ever served his Country, has there been no Compensation received for the Charges of the War? Are the Colonies entitled to no Credit for it?

When the Design is to oppress the Colonies with Taxes, or calumniate the late patriotic Minister, the *Expences of the War*, and the *Enormity of the national Debt* are proclaimed: When the present all accomplished Administration is to be celebrated, then is the immense Value of the new Acquisitions displayed in the brightest Colours, “ Acquisitions vast in Extent, richly productive
“ of the valuable Commodities belonging to their
“ several Climates. The Possession of those in
“ *North America*, ensures the Safety of the other
“ Colonies there, insomuch that our only dangerous Neighbours, the *French*, do not think the
“ Pittance left worth retaining, having, by the
“ Cession of *Louisiana* to the *Spaniards*, avowedly
“ given up for ever those great Objects, for which
“ alone They began the War.—The ceded Islands
“ are almost of equal Advantage, for protecting
“ our own, and annoying the Settlements of the
“ *French* and *Spaniards*, if They should be again
“ our Enemies.—Part of *Nova Scotia*, since the
“ Removal of the neutral *French*, hath been already settled by 10,000 Inhabitants, within the
“ Compass of Six or Seven Years, a Province
“ lately considered as no more than a proper Situation for a Fortress, whose Garrison it could
“ not subsist: Even *Cape Breton*, that barren Appendage to the Province of *Nova Scotia*, is
“ known now to contain Treasures so worthy of
“ Attention, as to be reserved to the Crown.
“ The Mines there are not Veins; they are
“ Mountains of Coal; vast Cliffs of nothing else,
“ stand open, and accessible; no Boring necessary
“ to find it; no Pit necessary to come at it; no

“ Fire-

“ Fire-Engines requisite for carrying on the
 “ Works. This Island, and all the neighbouring
 “ Shores in the Gulph of St. *Laurence*, have an-
 “ other Fund of Wealth in their Fisheries. *Ca-*
 “ *nada* is already a very flourishing Colony, inha-
 “ bited by 90,000 People, and their Demand on
 “ *Great Britain* for a Supply of Manufactures,
 “ must be immediately considerable. The Peltry
 “ will be another great Branch of Commerce,
 “ *West-Florida* is surprizingly fertile, and luxuriantly
 “ productive in its natural State, of every Thing,
 “ and not only promising, but actually producing
 “ Wines and Silk, and Indigo, &c. &c.”

Is no Part of this Description the Ebullition of an
 exuberant Fancy, and shall we not cast one Glance
 of Retrospection towards the Man, who, when his
 Country was despised, and insulted, and sunk into
 the most abject Condition of Despondence, by in-
 spiring her Sons with that invincible Vigour of Pa-
 triotism, with which himself was animated, not
 only dispelled her Fears, secured her Safety, and
 retrieved her Honour, but humbled her Enemies,
 and tore from them the Resources of their Strength,
 and the Supports of their Insolence?

Are the Acquisitions of the War retained by the
 Peace, so inestimably valuable, and ought not the
 Colonies to have some Consideration that were in-
 strumental in the Successes whence those Acquisi-
 tions flowed, and strained every Nerve in the ge-
 neral Service, to that Degree of Exertion, that
 without it, all the Power of *Great Britain*, all the
 amazing Abilities of her Minister, and all the
 Discipline, and unparalleled Bravery of her national
 Troops and Seamen, could not have availed beyond
 mere Defence, if happily so far? If the War was
 expensive beyond all former Example, so were the

Successes

Successes of it beneficial. If the Expences attending the military Operations in *America*, are justly to be charged to the sole Defence of the Colonies, and no Part of it to the Security of *Great Britain*, or to the Views of extending her Dominions by Conquest, if all the Successes of the War have been atchieved by the national Arms of *Great-Britain* ALONE, without any Assistance, or Co-operation of the Plantations, still ought not the Claim against the Colonies in Equity, to be mitigated upon Reflection on the Advantages derived from Them, and of their Contribution to the national Revenue for a long Course of Years, during which, their Protection put the *British* Nation to very little, if any particular Expence?

If moreover, *Great Britain* hath an equitable Claim to the Contribution of the Colonies, it ought to be proportioned to their Circumstances, and They might, surely, be indulged with discharging it in the most easy, and satisfactory Manner to Themselves. If Ways and Means convenient, and conciliating would produce their Contribution, as well as oppressive and disgusting Exactions, it is neither consistent with Humanity nor Policy, to pursue the latter—A Power may even exist without an actual Exercise of it, and it indicates as little good Sense as good Nature to exercise it, only that the Subjects of it may feel the Rod that Rules Them. Moderation may be observed, and Equity maintained, at the same Time that Superiority is asserted, and Authority vindicated, whatever the Apprehensions of Pusillanimity, or the Insolence of Usurpation may suggest.

What is the annual Sum expected from the Colonies—what Proportion from each—how far do their Abilities extend? These Matters have been
without

without doubt, precisely ascertained, or easily may be, at a Time “ when the real, the substantial, “ the commercial Interests of *Great-Britain*, are “ preferred to every other Consideration, and it is “ so well known, that the Trade whence it’s “ greatest Wealth is derived, and upon which it’s “ maritime Power is principally founded, depends “ upon a wise and proper Use of the Colonies,” which implies, at least, such an Understanding of their Circumstances, as must render it extremely easy, to form a reasonable Estimate of their comparative Wealth and the Extent of their Abilities. The Proportion of each Colony, being so easily ascertainable at this Period of *uncommon* Knowledge of their Affairs, why has the Course observed by *former* Ministers, when Supplies have been expected from *America*, been neglected by the *present* ? Why was there not the usual Requisition communicated to the Provincial Assemblies, instead of exacting an uncertain and unequal Sum from each Colony, by a Law abruptly passed without any previous Default of those who are affected by it ?—I shall not call it a Law repugnant to their Genius, cancelling their Charters, infringing the most valuable Rights and Privileges of *British* Subjects, derogatory from the Faith and Honour of Government, unjust and cruel in it’s Principles, rigorous and oppressive in the Means provided for it’s Execution, and as pernicious in it’s Consequences to the Mother Country, as injurious to the Colonies in it’s immediate Operation, but I may call it a rigorous and severe Law. It is in vain to attempt a Palliation of this useless Severity, (useless I mean to the Purpose of raising a Revenue) by fallaciously pretending that, as all the Colonies were to be taxed, and the Authority of each is limited, the Interposition of the Parliament became necessary ; since nothing can be less disputable,

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able, than that each Colony hath a competent Authority to raise it's Proportion, and consequently nothing is more evident, than that all the Colonies might raise the whole.* The Assertion that the Colonies would have paid no Regard to any Requisitions, is rash and unauthorized, and had the Event actually happened, the Trouble and Loss of Time to the Ministers in making the Experiment, would not have been considerable or detrimental to the Nation, and after it's Failure, an Act of Parliament might still have been made to compel the Contribution, if the Power which hath been exercised is defensible upon the Principles of the *British Constitution*.

A Measure so extreme, could hardly be at once pursued, because the Ministers did not know what to demand, who have made so many Regulations in regard to the Colonies, "founded upon Knowledge, formed with Judgment, and executed "with Vigour." Had the Requisitions been communicated, I make no doubt but They would have

* It is asserted in the Pamphlet entitled, *The Claim of the Colonies, &c.* that *Maryland* availing herself of the Protection of *Virginia* and *Pennsylvania*, contributed nothing to the common Defence. This Writer from a View of some Map of *North America* imagined, it should seem, that *Virginia* and *Pennsylvania* were settled so as to encompass *Maryland*; but the Truth is, that the Frontiers of *Maryland* were as much exposed, as those of the next Colonies, and the Fact is moreover false, for I have been well informed that *Maryland* contributed near 50,000*l.* and incurred besides a considerable Expence, which is now a Debt upon the public Journal of that Colony, by putting her Militia into actual Service; and that an unhappy Dispute attended with a very heavy provincial Charge, on some Topick of Privilege, was the real Cause, why the Grants of *Maryland* were not more liberal. After all, there have been Instances, I speak not of more modern Times, in which the Parsimony of the Parliament hath been complained of, and the Notion of Privilege carried to a great Length by the House of Commons; but these have not been thought solid Reasons for stripping their Constituents of their Rights.

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been entertained with Respect, and productive of all the Effects that could reasonably have been expected from Them. A petty *American* Assembly would not, in Answer to such Requisitions, have impertinently recommended the Reduction of exorbitant Salaries, the Abatement of extravagant, and the Abolition of illegal Perquisites, the Extinction of useless Places, or the disbanding of undeserving or ill deserving Pensioners, as a more proper and beneficial Method of relieving the public Burthens, than a new and heavy Imposition upon useful and industrious Subjects.

Have great Things been promised for the Ease of the People of *England*, and hath a Measure been fallen upon, that, by putting the Accomplishment of them at a Distance, and keeping Expectation alive, it may contribute to the Prolongation of a Power, which, in the Interim, will find sufficient Opportunities to gratify the Views of Ministerial Avarice or Ambition?

If a Sum had been liquidated, and a precise Demand made, it might perhaps have been shewn, if proportioned to the Circumstances of the Colonies, to be of no real Consequence to the Nation; and, if above their Circumstances, that it would, with the Oppression of the Plantations, prove ruinous to the *British* Manufactures; but, whilst Matters are thus vague, and indeterminate, any Attempt to shew that the *Stamp Duties* will be inadequate to the promised Relief, distress the Colonies, and consequently beggar the *British* Manufacturers, may be obviated by saying, that “the Act is in the Nature of an Experiment: if inadequate, other Methods may be superadded; if inconvenient, it may be repealed, as soon as discovered;” and

Hints may be thrown out at the same Time, to cherish the Hopes of the Nation, that there are the best Grounds to expect * the Measure will be productive of all that can be desired or wished.

The frugal *Republicans* of *North-America* (if the *British* Inhabitants there are to be distinguished by a *Nick-Name*, because it implies that They are Enemies to the Government of *England*, and ought therefore to be regarded with a jealous Eye) may be allowed, without derogating from the vast and prodigious Knowledge of a Minister, to be acquainted with their own internal Circumstances better than a Stranger, who must depend upon Information; and that too, most frequently, of Men not the most eminent for their Candour, distinguished by their Sagacity, or respectable for their Integrity. Had Requisitions been made, and the Sum demanded been equitable, and proportioned to their Circumstances, They could have fallen upon Ways and Means less oppressive than the *Stamp Duties*. They have frequently taxed Themselves: They have tried various Methods of Taxation: They know, by Experience, the easiest and least expensive.— The Meaning or Construction of their Levy-Acts is settled: They can be carried into Execution, not only at a small Expence, without exhausting a considerable Part of their Produce by the Multiplication of Officers, and their Support; but with-

It is asserted by the Author of *The Claim of the Colonies*, &c. that the Merchants trading to the several Colonies gave in an Estimate of the Debt due to Them from the Colonies, amounting to 4,000,000*l.* It would have been a real public Service if he had pointed out how this Debt is to be paid under the Oppression of new and heavy Impositions, or what will be the proper Remedy if there should be a Stoppage in the Payment of 4,000,000*l.* a Stagnation of Commerce, and want of Employment to the *British* Manufacturers.

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out heavy Pains and grievous Penalties, without Oppression of the innocent, giving Countenance to Vexation, and Encouragement to profligate Informers, without the Establishment of arbitrary and *distant* Courts of * Admiralty.

The national Debt is heavy, and it is a popular Scheme to draw from the Colonies a Contribution towards the Relief of the Mother-Country.—The Manner of effecting it is not carefully attended to, or nicely regarded by those who expect to receive the Benefit.—The End is so ardently desired, that, whether the Means might not be more moderate, is not scrupulously examined by Men, who think Themselves in no Danger of Injury or Oppression from their Severity. It is affirmed to those who cannot detect the Fallacy of the Assertion, that Millions have been expended *solely* in the Defence of *America*. They believe it, and thence are easily persuaded that the Claim of a Contribution from the Colonies is just and equitable, and that any Measure necessary to secure it, is right and laudable.—It is represented, that unless the Colonies are stripped of the *Trial by Jury*, and Courts of *Admiralty* are established, in which Judges from *England*, Strangers, without Connection or Interest in *America*, removeable at Pleasure, and supported by liberal Salaries, are to preside; unless Informers are encouraged and favoured, and the accused most rigorously dealt by, that the Tax will be eluded—and these Severities are excused on Account of their supposed Necessity. The Colonies are described to be a numerous, flourishing,

* It was formerly held to be a grievous Oppression, that, instead of having Justice at Home, the *English* Subject was drawn to *Rome* by APPEALS; but an *American* is to be drawn from Home, in the FIRST INSTANCE, as well as by Appeals.

and opulent People :—It is alledged that They contribute to the national Expence, by Taxes *there*, only the pitiful Sum of 1900 *l.* per Year, for the Collection of which, an Establishment of Officers, attended with the Expence of 7600 *l.* *per Annum*, is necessary.—Upon these Premisses, the Uneasiness of the Colonies, at being forced to bring more into the common Stock, appears to be unreasonable, if not rebellious ; and They seem rather to deserve Reprehension and Correction, than Favour and Indulgence.

The Successes of the War were obtained as well by the vigorous Efforts of the *Colonies*, as by the Exertion of *Great-Britain*.—The Faith of *Great-Britain* hath been engaged in the most solemn Manner, to re-pay the Colonies the Monies levied by internal Taxations for the Support of the War.—Is it consistent with that Faith to tax Them towards sinking the Debt in Part incurred by that Re-payment ? The immense Accession of Territory, and Value of the Acquisitions obtained by the Peace, is the Consequence of the Successes of the War—The Charge of the War is lessened by the Advantages resulting from the Peace—The Colonies, for a long Course of Time have largely contributed to the public Revenue, and put *Great-Britain* to little or no Expence for their Protection.—If it were equitable to draw from Them a further Contribution, it does not therefore follow, that it is proper to force it from Them, by the harsh and rigorous Method established by the Stamp Act ; an Act unequal and disproportioned to *their* Circumstances whom it affects ; exempting Opulence, crushing Indigence ; and tearing from a numerous, loyal, and useful People, the Privileges They had, in their Opinion, earned and merited, and justly held

held most dear. If They are really in Debt, the Payment of it hath not been refused, it hath not been demanded.—If one Subject, grown giddy with sudden Elevation, should, at any future Period, rashly declare, that the Colonies should be taxed, at all Events, in the most rigorous Manner; and that Millions of industrious and useful Subjects should be grievously oppressed, rather than himself depart from his Character of Pertinacity and Wilfulness, check the Impulse of a tyrannical Disposition, or forego the Gratification of his Vanity, in a wanton Display of Power, Submission would be an admirable Virtue indeed, if not the Effect of Impotence.

That the Contribution arising from the *Stamp Duties* is disproportioned to *their* Circumstances from whom it is exacted, is manifest; for They will produce in each Colony, a greater, or less Sum not in Proportion to its Wealth, but to the Multiplicity or Juridical Forms, the Quantity of vacant Land, the Frequency of transferring landed Property, the Extent of Paper Negotiations, the Scarcity of Money, and the Number of Debtors. A larger Sum will be exacted from a Tobacco-Colony than from *Jamaica*; and it will not only be higher in one of the poorest Colonies, and the least able to bear it, than in the richest; but the principal part of the Revenue will be drawn from the poorest Individuals in the poorest Colonies, from Mortgagors, Obligors, and Defendants. If this be true, does the Act deserve the Encomium of being *a Mode of Taxation the easiest, and the most equal, a Duty upon Property spread lightly over a great Variety of Subjects, and heavy upon none?*

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The Commons of Great Britain, moreover, in their Capacity of *Representative*, not only *Give and Grant* the Property of the Colonies; but, in my Construction of the Stamp-Act, (however every Reader may examine and judge for himself) *Give and Grant* also to certain Officers of the Crown, a Power to tax Them higher still; for these Officers will not, I presume, be called *virtual Representatives* too; and what they shall think fit to levy, by an ingenious Extent of the Fiction, will not be considered as levied with the Consent of the Colonies.—The Instances, I believe, are *rare*, in which the Representatives of the People of *England* have delegated to Officers of the Crown, the Power of taxing their Constituents, nor hath any Distinction yet been advanced to prove, that in their Capacity of *virtual Representatives* of the Colonies, the House of Commons not having the same Confidence reposed in Them, ought to proceed upon peculiar Rules. There was a Statute of *Henry VIII*, by which, I think, the King's Proclamations, with the Consent of the Privy Council, were to operate as Laws; and another Statute of *Richard II*, that the Power of the Two Houses should be vested in Twelve Lords; but these Acts bear no Resemblance to the Stamp-Act.

The Stamping Instruments are to be retained in *England*.—Vellum, Parchment, and Paper, are to be sent to *America*, ready stamped.—The first Commissioner of the Treasury, or the Commissioners, or any Three or more of Them, are, by the Act, impowered to set any Price upon the Vellum, Parchment and Paper, and the Payment of that Price is secured and enforced by the same Pains and Penalties that the Stamp-Duties are.

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If the Substitution of an arbitrary civil Law Court, in the Place of the legal Judicatories, and that deserved Favourite, the Common-Law-Trial by Jury, would not justify the Assertion, that the Stamp-Act hath stripped the Colonies of the Guards and Securities provided by the Constitution against Oppression in the Execution of Laws, I would much less presume to say, the vesting in the Commissioners of the Treasury a Power to tax the Colonies, will amply justify the Assertion, that the Stamp-Act hath not left Them even the Shadow of a Privilege.—It is indeed something difficult to imagine how the Order of Democracy, which is as much a Part of the Constitution as Monarchy or Aristocracy, can exist when the People are excluded from a Share in the executing, and a Share in the making of Laws; but that is *not* the present Case; and, though I may not be able to answer a specious Objection, formed upon general Principles, I am not obliged to adopt it, till I am convinced of its Solidity.

A little Examination will find how unfair and deceptive the Representation is, that the Colonies in *North America*, “Two Millions of *British* Subjects, an opulent, thriving and commercial People, contribute to the national Expence, no more than 7 or 800 *l. per Annum* by Taxes raised *there*,” for though it should be acknowledged (which I neither admit nor deny, because I do not know, nor have an Opportunity of coming at the Fact) that the Impositions upon the Inhabitants of the Colonies do not raise *there*, a greater Sum than hath been stated, it doth not follow that “the Inhabitants of the Colonies are indulged at the Expence of *Great Britain*, and that the neediest *British* Cottager, who out of his scanty

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“ Pit-

“Pittance hardly earned, pays the high Duties
 “of Customs and Excise in the Price of his Con-
 “sumptions, has Reason to complain, if immense
 Sums are raised upon the Inhabitants of the Co-
 lonies *elsewhere*.

By such Artifices and Sophistry, is Ignorance
 misled, Credulity deceived, and Prejudices ex-
 cited. Thus Oppression gains the Credit of
 Equity, Cruelty passes for Moderation, and Ty-
 ranny for Justice; and the Man who deserves—
 Reproach, is celebrated by Adulation, and ap-
 plauded by Delusion for his Wisdom and patriotic
 Virtues.

The Truth is, that a vast Revenue arises to the
British Nation from Taxes paid by the Colonies in
 GREAT BRITAIN, and even the most ignorant *British*
Cottager, not imposed upon by infamous Misre-
 presentation, must perceive, that it is of no Con-
 sequence to his Ease and Relief, whether the Du-
 ties raised upon *America* are paid *there*, and thence
 afterwards remitted to *Great Britain*, or paid at
 first upon the produce of the Colonies in *Great*
Britain.

In the Article of Tobacco, for Instance, the
 Planter pays a Tax upon that Produce of his Land
 and Labour consumed in *Great Britain*, more than
 Six Times the clear Sum received by Him for it,
 besides the Expences of Freight, Commission and
 other Charges, and double Freight, Commission
 and Charges upon the Tobacco re-exported, by
 which the *British* Merchants, Mariners and other
British Subjects, are supported—a Tax, at least,
 equal to what is paid by any Farmer of *Great*
Britain, possessed of the same Degree of Proper-

ty, and moreover the Planter must contribute to the Support of the expensive internal Government of the Colony, in which He * resides.

Is it objected, that the Duties charged upon Tobacco, fall ultimately upon the Consumers of this Commodity in the consequential Price set upon it? Be it so, and let the Principle be established that all Taxes upon a Commodity, are paid by the Consumers of it, and the Consequence of this Principle be fairly drawn, and equally applied.

The *British* Consumers, therefore, ultimately pay the high Duties laid upon Tobacco, in Proportion to the Quantity of that Commodity which They consume—The Colonies therefore, in Proportion to their Consumption of *British* Manufactures, pay also the high Duties of Customs and Excise, with which the Manufactures are charged, in the consequential Price set upon their Consumptions—In their Passage moreover, from the *British* Manufacturers to the *American* Importers, the Commodities go through a great many Hands, by which their Costs are enhanced; the Factors, the Carriers, the Shop-keepers, the Merchants, the Brokers, the Porters, the Watermen, the Mariners, and others, have their respective Profits, from which They derive their Subsistence, and the Support of their Families, and are enabled to pay the high Duties of Customs and Excise, in the Price of their * Consumptions.

The Policy of the late Regulations of the Colonies is of the same Character with their Justice

* See the Appendix.

and Liberty. The Produce of their Lands, the Earnings of their Industry, and the Gains of their Commerce centre in *Great Britain*, support the Artificers, the Manufactories, and Navigation of the Nation, and with Them the *British* Landholders too.

Great Britain had ALL before, and therefore can have no more from the Colonies; but the Minister, in the pursuit of a "well-digested, consistent, wise and salutary Plan of Colonization" and Government, a Plan founded upon the "Principles of Policy, Commerce and Finance," chuses to demolish at one Blow, all their Privileges as they have understood Them, that he may raise in *America*, a Part of what was before paid in *Great Britain*. But if the Execution of it, instead of improving the Advantages already possessed, confirming the Blessings already enjoyed, and promoting the public Welfare, should happen to distress the Trade, reduce the Navigation, impoverish the Manufacturers, and diminish the Value of the Lands in *Great Britain*; should it drive the *British* Mechanics and Manufacturers to *America*, by depriving Them of their best Customers at Home, and force the Colonies upon Manufactures they are disabled from purchasing, other Topics of Eulogy must be discovered by his ingenious Economists, than his Wisdom or his political Achievements. Upon such an Event, an *American* will have very little Reason to exclaim

O! me infelicem, qui nunc demum intelligo
 Ut illa mihi profuerint quæ despexeram,
 Et illa, quæ laudârunt, quantum Luctus habuerint!
 The is no immediate Connection: on the contrary

The Right of Exemption from all Taxes without their Consent, the Colonies claim as *British* Subjects. They derive this Right from the common Law, which their Charters have declared and confirmed, and They conceive that when stripped of this Right, whether by Prerogative or by any other Power, they are at the same Time deprived of every Privilege distinguishing Free-Men from Slaves.

On the other Hand, They acknowledge Themselves to be subordinate to the Mother Country, and that the Authority vested in the supreme Council of the Nation, may be justly exercised to support and preserve that Subordination.

Great and just Encomiums have been bestowed upon the Constitution of *England*, and their Representative is deservedly the Favourite of the Inhabitants in *Britain*. But it is not because the supreme Council is called *Parliament*, that They boast of their Constitution of Government; for there is no particular magical Influence from the Combination of the Letters which form the Word; it is because They have a Share in that Council, that They appoint the Members who constitute one Branch of it, whose Duty and Interest it is to consult their Benefit, and to assert their Rights, and who are vested with an Authority, to prevent any Measures taking Effect dangerous to their Liberties, or injurious to their Properties.

But the Inhabitants in the Colonies have no Share in this great Council. None of the Members of it are, or can be of their Appointment, or in any Respect dependant upon Them. There is no immediate Connection; on the contrary, there

there may be an Opposition of Interest; how puerile then is the Declamation, "what will become of the Colonies Birthright, and the glorious Securities which their Forefathers handed down to Them, if the Authority of the *British* Parliament to impose Taxes upon Them should be given up? To deny the Authority of the *British* Legislature, is to surrender all Claim to a Share in its Councils, and if this were the Tenor of their Charters, a Grant more insidious or replete with Mischief, could not be imagined, a Forfeiture of their Rights would be couched under the Appearance of Privilege, &c."

We claim an Exemption from all *Parliamentary* Impositions, that We may enjoy those Securities of our Rights and Properties, which We are entitled to by the Constitution. For those Securities are derived to the Subject from the Principle *that he is not to be taxed without his own Consent*, and an Inhabitant in *America* can give his Consent in no other Manner than in Assembly. It is in the Councils that exist there, and there *only*, that he hath a Share, and whilst He enjoys it, his Rights and Privileges are as well secured as any Elector's in *England*, who hath a Share in the national Councils there; for the Words *Parliament* and *Assembly* are, in this Respect, only different Terms to express the same Thing.

But it is argued, that "if the Common Law of *England* is to be brought, as justifying a Claim of Exemption in any Subject of *Great Britain* from a *Parliamentary* Tax, it will plead against a Tax imposed by a provincial Assembly; for as all the Colony Assemblies derive
" their

"their Authority from the meer Grant of the
 "Crown only, it might be urged that any Tax
 "imposed by Them, is imposed by Authority of
 "the Prerogative of the Crown, and not by full
 "Consent of Parliament. That if this Right in
 "the Crown is acknowledged to exempt the Sub-
 "ject from the Jurisdiction of Parliament in the
 "Case of Taxation, its Power to dispense with
 "Acts of Parliament, or to deprive the same
 "Subject of the Benefit of the common Law,
 "cannot be denied."

One would be inclined to suspect that it is sup-
 posed, something else than Reason may on this
 Occasion conduce to Persuasion.

The *English* Subjects, who left their native
 Country to settle in the Wilderness of *America*,
 had the Privileges of *other Englishmen*. They
 knew their Value, and were desirous of having
 Them perpetuated to their Posterity. They were
 aware that, as their Consent whilst They should
 reside in *America*, could neither be asked nor re-
 gularly given in the national Legislature, and that
 if They were to be bound by Laws without Re-
 striction, affecting the Property they should earn
 by the utmost Hazard and Fatigue, They would
 lose every other Privilege which they had enjoyed
 in their native Country, and become meer Tenants
 at Will dependant upon the Moderation of their
 Lords and Masters, without any other Security—
 That as their Settlement was to be made under
 the Protection of the *English* Government, They
 knew, that In Consequence of their Relation to
 the Mother-Country, They and their Posterity
 would be subordinate to the supreme national
 Council,

Council, and expected that Obedience and Protection would be considered as reciprocal Duties.

Considering Themselves, and being considered in this Light, They entered into a Compact with the Crown, the Basis of which was, *That their Privileges as English Subjects, should be effectually secured to Themselves, and transmitted to their Posterity.* And as for this Purpose, precise Declarations and Provisions formed upon the Principles, and according to the Spirit of the *English Constitution* were necessary; CHARTERS were accordingly framed and conferred by the Crown, and accepted by the Settlers, by which all the Doubts and Inconveniences which might have arisen from the Application of general Principles to a new Subject, were prevented.

By these Charters, founded upon the unalienable Rights of the Subject, and upon the most sacred Compact, the Colonies claim a Right of Exemption from Taxes *not imposed with their Consent.*—They claim it upon the Principles of the Constitution, as once *English*, and now *British* Subjects, upon Principles on which their Compact with the Crown was originally founded.

The Origin of other Governments is covered by the Veil of Antiquity, and is differently traced by the Fancies of different Men; but, of the Colonies, the Evidence of it is as clear and unequivocal as of any other Fact.

By these declaratory Charters the Inhabitants of the Colonies claim an Exemption from *all* Taxes not imposed by their own Consent, and to infer from

from their Objection to a Taxation, to which their Consent is not, nor can be given, *that They are setting up a Right in the Crown to dispense with Acts of Parliament, and to deprive the British Subjects in America of the Benefits of the common Law*, is so extremely absurd, that I should be at a Loss to account for the Appearance of so strange an Argument, were I not apprized of the unworthy Arts employed by the Enemies of the Colonies to excite strong Prejudices against Them in the Minds of their Brethren at Home, and what gross Incongruities prejudiced Men are wont to adopt.

Though I am persuaded that this Reasoning hath already been sufficiently refuted, and that no sensible and dispassionate Man can perceive any Force in it, yet I cannot help remarking, that it is grounded upon a Principle, which, if it were possible for the Examiner to establish it, would entitle him to the Applause of the Inhabitants in *Great Britain*, as little as to the Thanks of the Colonies.

From what Source do the Peers of *England* derive their Dignity, and the Share They have in the *British Legislature*? Are there no Places in *England* that derive their Power of chusing Members of Parliament from royal Charters? Will this Writer argue, that the Crown may, by Prerogative, tax the Inhabitants of *Great-Britain*, because the Peers of *England*, and some Representatives of the People, exercise a legislative Authority under royal Patents and Charters? It must be admitted that all the Members of the House of Commons are freely chosen by the People, and are not afterwards subject to any Influence of the Crown or the Ministry: And are not

the Members of the lower Houses of Assembly as freely chosen also by the People; and, in Fact, as independent as the Members of the House of Commons? If the Truth were confessed, the Objection would not be, *that the Colonies are too dependent upon the Crown*, or that their Claim of Exemption from all Taxes not imposed by their own Consent, *is founded upon a Principle leading to Slavery*. At one Time, the *North Americans* are called *Republicans*; at another, *the Assertors of Despotism*. What a strange Animal must a *North American* appear to be from these Representations to the Generality of *English* Readers, who have never had an Opportunity to admire, that He may be neither black, nor tawny, may speak the *English* Language, and, in other Respects, seem, for all the World, like one of Them!

“The common Law, the great Charter, the “Bill of Rights,” are so far from “declaring, “with one Voice, that the Inhabitants of the Colonies shall be taxed by no other Authority than “that of the *British Parliament*,” that They prove the contrary; for the Principle of the common Law is, *that no Part of their Property shall be drawn from British Subjects, without their Consent, given by those whom They depute to represent Them*; and this Principle is enforced by the Declaration of the GREAT CHARTER, and the *Bill of Rights*; neither the one nor the other, introducing any new Privilege. In *Great-Britain*, the Consent of the People is given by the House of Commons: and, as Money had been levied there for the Use of the Crown, *by Pretence of Prerogative, without their Consent*, it was properly declared at the Revolution, in Support of the Constitution, and in Vindication of the People’s Rights; that the levying

ing of Money, by *Pretence of Prerogative*, without Grant of Parliament, *i. e.* without their Consent who are to pay it, is illegal, which Declaration was most suitable to the Occasion, and effectually establishes the very Principle contended for by the Colonies.

The Word *Parliament*, having been made use of, the *Letter* of the Declaration is adhered to, and the Consequence drawn, that no *British* Subject can be legally taxed, but by the Authority of the *British Parliament*, against the Spirit and Principle of the Declaration, which was aimed only to check and restrain the *Prerogative*, and to establish the Necessity of obtaining *the Consent* of those on whom Taxes were to be levied. Is not this a new Kind of Logic, to infer from Declarations and Claims, founded upon the necessary and essential Principle of a free Government, that the People ought not to be taxed without their Consent, that therefore the Colonies ought to be taxed by an Authority, in which their Consent is not, nor can be concerned; or, in other Words, to draw an Inference from a Declaration or Claim of Privilege, subversive of the very Principle upon which the Privilege is founded? How awkwardly are the Principles of the Revolution applied by some Men! What Astonishment would the Promoters of that glorious Measure, those Patrons and Friends of Liberty, did They now tread the Stage of this World, express, that a *Word*, by which They meant to assert the Privileges of the Subject, and restrain despotic Power, should be relied upon to demolish the very Principle by which Theyselfes were animated, and after all their Pains and Hazards to establish the generous Sentiments of Liberty, that those who feel and enjoy

the Blessings of their successful Struggles, should not be able to raise a Thought beyond the Ideas affixed to systematic Terms.

It was declared also by the *Bill of Rights*, that the Elections of *Members of Parliament* ought to be free, and the common Law laid down the same Rule before, which is as applicable to the Election of the Representatives of the Colonies, as of the Commons of *Great Britain*. But with the Help of the Examiner's Logic, it might be proved from the *Letter* of the *Bill of Rights*, that the Elections *only* of *Members of Parliament* ought to be free; for the Freedom expressed in the *Bill of Rights*, is as much attached to Elections of *Members of Parliament*, as the Authority to grant Money is to *the British Parliament*, and if the Declaration in the one Case implies a Negative, there is the like Implication in the other. If, moreover, the common Law, the great Charter, and the *Bill of Rights*, do really, as the Examiner asserts, with one Voice declare, that the Inhabitants of the Colonies ought to be taxed *only* by the *British Parliament*, it is not consistent with that Character of Vigilance, and Jealousy of their Power, commonly ascribed to the *British Parliament*, that, from their first regular Settlement to the Reign of *George III*, the *American Assemblies* should not only have been suffered, without any Animadversion, without one Resolve, or even a single Motion to restrain Them, to encroach upon the Jurisdiction and Authority of the *British Parliament*; but that the *Parliament* should never before the late *Stamp Act*, in one Instance, have imposed an internal Tax upon the Colonies for *the single Purpose of Revenue*, and that, even when Acts of Assembly passed in Consequence of Ministerial enforced by royal

royal Requisitions have been laid before Them, They should be so far from objecting to their Validity, as actually to recognize the Authority of the provincial Legislatures, and upon that Foundation superstruct their own Resolves and Acts.

But though it hath been admitted, that the *Stamp-Act* is the first Statute that hath imposed an internal Tax upon the Colonies *for the single Purpose of Revenue*, yet the Advocates for that Law contend, that there are many Instances of the Parliament's exercising a supreme legislative Authority over the Colonies, and actually imposing *internal Taxes* upon their Properties—that the Duties upon any Exports or Imports are internal Taxes—That an Impost on a foreign Commodity is as much an internal Tax, as a Duty upon any Production of the Plantations—That no Distinction can be supported between one Kind of Tax and another, an Authority to impose the one extending to the other.

If these Things are really as represented by the Advocates for the *Stamp Act*, why did * the *Chancellor of the Exchequer* make it a Question for the

* I have presumed to mention this Fact upon the Authority of private Intelligence, as well as the News Papers, and other Publications; and though the Chancellor of the Exchequer is not named, yet the Fact seems in general to be referred to in the Postscript to the excellent *Letter concerning Libels, Warrants, Seizure of Papers, and Security of the Peace, &c.* in the following Words: "Otherwise (*i. e.* if it were not right for the Parliament to resolve general Warrants to be illegal) let me ask how that *momentous* Resolution touching an *English* Parliament's Right of taxing the Colonies could be justified? It was an independent substantive Resolution, followed by Nothing, (*i. e.* that Session) and yet was a Resolution not only

the Consideration of the House of Commons, whether the Parliament could impose an *internal Tax* in the Colonies or not, for the *single Purpose of Revenue?*

It appears to me, that there is a clear and necessary Distinction between an Act imposing a Tax for the *single Purpose of Revenue*, and those Acts which have been made for the Regulation of Trade, and have produced some Revenue in *Consequence of their Effect* and Operation as *Regulations of Trade*.

The Colonies claim the Privileges of *British Subjects*—It has been proved to be inconsistent with those Privileges, to tax Them *without their own Consent*, and it hath been demonstrated that a Tax imposed by Parliament, is a Tax *without their Consent*.

The Subordination of the Colonies, and the Authority of the Parliament to preserve it, have been fully acknowledged. Not only the Welfare, but perhaps the Existence of the Mother Country, as an independent Kingdom, may depend upon her Trade and Navigation, and these so far upon her Intercourse with the Colonies, that if this should

“ of extreme Magnitude, but of the most general and highest
 “ legal Nature, involving in it a Decision of the first and most
 “ fundamental Principles of Liberty, Property, and Government,
 “ and well worthy also, as to the temporary Policy of it, the
 “ most serious of all Consideration. This was resolved too, if I
 “ am informed right, at the Close of the Night, and the Rising
 “ of the House; so that every Body must have taken it as a
 “ clear Thing, that They could at any Time come to a Reso-
 “ lution upon any general Point of Law, whenever They should
 “ see it expedient so to do, *sed Verbum sapienti sat est.*”

be

be neglected, there would soon be an End to that Commerce, whence her greatest Wealth is derived, and upon which her maritime Power is principally founded. From these Considerations, the Right of the *British Parliament* to regulate the Trade of the Colonies, may be justly deduced; a Denial of it would contradict the Admission of the Subordination, and of the Authority to preserve it, resulting from the Nature of the Relation between the Mother Country and her Colonies. It is a common, and frequently the most proper Method to regulate Trade by Duties on Imports and Exports. The Authority of the Mother Country to regulate the Trade of the Colonies, being unquestionable, what Regulations are the most proper, are to be of Course submitted to the Determination of the Parliament; and if an *incidental Revenue* should be produced by such Regulations, these are not therefore unwarrantable.

A Right to impose an internal Tax on the Colonies, with their Consent, *for the single Purpose of Revenue*, is denied; a Right to regulate their Trade without their Consent is admitted. The Imposition of a Duty may, in some Instances, be the proper Regulation. If the Claims of the Mother Country and the Colonies should seem on such an Occasion to interfere, and the Point of Right to be doubtful, (which I take to be otherwise) it is easy to guess that the Determination will be on the Side of Power, and that the Inferior will be constrained to submit *.

The

* In the Reign of our great Deliverer, when the *English* and the *Dutch* were at War with *France*, They joined in preventing the Northern Powers from carrying on a Trade with the Enemy.

The Writer on the Regulations lately made with Respect to the Colonies, who is said to have been *well informed*, asserts a Fact, which indisputably proves, that the Impositions mentioned, were *only* Regulations of Trade, and can, with no kind of Propriety, be considered in any other Light. The Fact he asserts, is, that “ the whole Remittance from all the Taxes in the Colonies, at an “ Average of Thirty Years, has not amounted to “ 1900 *l.* a Year, and in that Sum, 7 or 800 *l.* “ *per Annum* only, have been remitted from *North-America*; and that the Establishment of Officers, “ necessary to collect that Revenue, amounts to “ 7600 *l. per Annum.*”

It would be ridiculous indeed to suppose, that the Parliament would raise a Revenue by Taxes in the Colonies to defray Part of the national Expence, the Collection of which Taxes would increase that Expence to a Sum more than three Times the Amount of the Revenue; but, the Impositions being considered in their true Light, as Regulations of Trade, the Expence arising from an Establishment necessary to carry Them into Execution, is so far from being ridiculous, that it may be wisely incurred.

The Author of the Claim of the Colonies, &c, gives (as hath been observed) the Epithets of *un-*

my. M. Groning having formed a Design, to prove the Right of the Northern Powers to a free Trade and Navigation, communicated his Plan to and desired the Opinion of Baron Puffendorf upon it, who observed that as the Question had not been settled upon clear and undeniable Principles, and there was a Mixture of Fact and Right, the Confederates might contend that They have a Right to distress the Enemy, and, as the Means to attain that Purpose, to restrain the Trade of the Northern Powers, an Argument that with superior Force would be conclusive,

just and partial, to a Tax which should be imposed upon the Non-Electors, only in *Britain*; and, in that very Instance, proves, that a Tax upon the Non-Electors in the Colonies, is more unjust and partial, and yet undertakes to defend the Justice of it; and the Writer on the Regulations of the Colonies declares, that it is in vain to call the Acts He has cited as Precedents, by the Name of mere Regulations, notwithstanding He hath irrefragably proved, that They are ridiculous, if considered in any other Light. (See *The Regulations of the Colonies*, &c. * pag. 105—57, and *The Claim of the Colonies*, &c. pag. 28, 29, 30.)

Though I conceive that the Distinction which hath been suggested, is sufficiently evident, and that the Argument from Precedents hath been refuted, yet, as there have been two or three Instances particularly enforced and relied upon, I must beg the Reader's Patience whilst I examine Them separately, without undertaking the Task to remove every Incongruity to be found in the Writings of the Enemies of *America* on this Occasion; for it would require an *Hercules* to cleanse the Stable.

The 5th Geo. II. it is alledged, “ *abrogates so much of the Common Law as relates to Descents of Freeholds in America, takes from the Son the Right of Inheritance in the Lands the Crown had granted to the Father, and his Heirs in absolute*

* A grave Answer to a little pert Pamphlet, called *the Objections to the Taxation*, &c. would be too ludicrous. When the Author talks of Orders to be observed under Pains and Penalties, he uses the awful Style of a L——d of T——; but it was too constrained for him to support, and he therefore very naturally relapsed into the Character of a Jack-Pudding. He had very little Reason to apprehend that *Locke*, *Sidney*, or *Selden*, would be called upon to pull off his—Cap.

H

“ Fee,

" Fee, makes them Assets, and applies Them to
 " the Payment of Debts and Accounts contracted
 " by the Father *without the Participation of the*
 " Son; it sets aside the Sort of Evidence required
 " by the Common Law, and established by every
 " Court of Justice in America, in Proof of a Debt,
 " and enjoins the Admission of an *ex Parte Affi-*
 " *davit*. The Power of Parliament having been
 " exercised to take away the Lands of the People in
 " America, the most sacred Part of any Man's
 " Property, and disposing of Them for the Use of
 " private Persons Inhabitants of Great-Britain, who
 " can question," says the Examiner, " the Parlia-
 " ment's Right to take away a small Part of the
 " Products of those Lands, and apply it to the
 " public Service?"

It is very observable, that in applying this Statute,
 a Language is made use of, which gives the Idea
 of Violence; and it must be confessed, that great
 Aggravation of Features, and strong Colouring,
 were necessary, to make it in any Degree resemble
 the Impositions of the *Stamp-Act*.

It would be useless, as well as tedious, to point
 out every Misrepresentation in this Application,
 since that it will be effectually done, by briefly
 shewing the Effect of the 5th Geo. II. and sug-
 gesting the Occasion of making that Statute,

Lands, Negroes, &c. in the Plantations, are
 made Assets for the Satisfaction of all Debts owing
 to his Majesty, or any of his Subjects, in like Man-
 ner as Real Estates are, by the Law of England
 liable to the Satisfaction of Debts due by Spe-
 cialty.

If

If the Creditor resides in *Great-Britain*, the Affidavits of his Witnesses taken there, are to be allowed as Evidence, and to have the same Force their Testimony would have, if given, *viva Voce*, in open Court.

The Evidence mentioned in the Statute, prevailed in most, if not all the Colonies, before the Statute, and Lands were also liable to the Satisfaction of all Debts in most Instances, by the Method practised also in the Court of Chancery in *England*, of marshalling Assets. In some of the Colonies, without this Circuity, Lands were immediately liable to simple Contract Debts.

Independent of the Statute, when the Creditor obtains a Judgment against his Debtor, *all* his Lands, &c. over which he has a *disposing* Power, are liable, and, since the Statute, only *such* Lands, &c. are Assets, as the Debtor had a Power to dispose of. It appears then, that all the Effect of the Statute on this Head, is to subject Real Estates to the Payment of Debts *after* the Death of the Debtor, (for the most Part, the Case before the Statute) which might have been made Subject *before* his Death.

In many of the Colonies, the provincial Creditors of the deceased Debtors, were preferred to the *British*, in the same Degree, by Acts of Assembly which carried the Appearance of Partiality; tho' in Fact, the Effect of the Laws of *England* gave rise to Them; for, upon Bankruptcies in *Great-Britain*, the Steps required by the Statutes to entitle Creditors to a Satisfaction, effectually exclude Colony Creditors in most Cases, and their Distance, when their Debtors die in *Great-Britain*, where Colony Creditors have not standing Agents as the

Merchants have in the Plantations, and there happens a Deficiency of Assets, shuts them out likewise from all Chance of Satisfaction in the usual Scramble among Creditors for the Debtor's Estate on such Events.

In some of the Colonies They changed, by Acts of Assembly, certain Species of personal Property, *e. g.* Negroes, into the Nature of real Estates, by making Them descendible; and, by this Alteration of the Common Law, and Confusion of the former Distinction of Property, very considerably diminished the personal Fund, liable to *all* Debts.

As these Circumstances were represented and believed to be great Discouragements to the Trade of the Mother Country, after repeated Requisitions to provide a Remedy in the Colonies, in which the Grievance was most sensibly felt, had been disregarded, the Statute was finally made.

This was, without Doubt, a Subject upon which the Superintendence of the Mother-Country might be justly exercised; it being relative to her Trade and Navigation, upon which her Wealth and her Power depend, and the Preservation of her Superiority, and the Subordination of the Colonies, are secured, and therefore is comprehended in the Distinction.

After citing, and applying this Statute, the Examiner takes Occasion to insult a Gentleman of a most amiable and respectable Character, because he presumed, it seems, to question the Universality of Parliamentary Power, and appears to be so totally occupied in the Business of Defamation, as not to be aware of his running into the most egregious

gious Inconsistencies. If the Examiner is a Lawyer, he has betrayed the most shameful Ignorance; if an Agent, the most infamous Unfaithfulness. Had the *American Chief Justice* acted in England, as too many of his Countrymen have done—Had He paid his Court to Power, by mean Compliances, and endeavoured to recommend himself, by inventing Accusations against the Colonies, by representing the Inhabitants in Them, as a refractory, disloyal, and rebellious People, and by proposing Schemes for their Depression—Had he not firmly maintained his Character of Honour and Probity, we should not have seen this Impeachment of his Understanding; but he left the Task of Prostitution to the Man of sordid Views,

*Ille superbos Aditus Regum,
Durasq; fores, expers Somni
Colat*——

“ Had the Colonies,” says the Examiner, “ agreed to the Imposition of the Stamp-Duties, “ a Precedent would have been established for “ their being consulted, before any Imposition “ upon Them by Parliament would hereafter take “ Place.” He intimates that They were advised by some of their Agents to take this Course: If such Advice hath been given, it was weak or insidious, and the Agents, who recommended the Measure, ought to be removed for their Incapacity or their Treachery.

How would the Precedent have been established, or, if it had, what would have been the Advantage? This Conduct would have admitted, that the Colonies might be taxed at any Time, and in any Manner, without their Consent; and conse-

consequently, would at once have been an effectual Surrender of all their Privileges as *British* Subjects.

If Precedents were to be regarded, when a Tax in *America*, for the *single Purpose of Revenue* is required, they are not wanting. Upon such Occasions, the Course hath always, and uniformly been, 'till the Imposition of the Stamp-Duties, to transmit Requisitions to the Colonies; and, if the Instance cited by the Examiner, is in any Degree pertinent, he has shewn in his Appendix, that the Method of Requisition was in *that* pursued; for, the Lords of Trade, in their Report, expressly mention the Refusal of the Colonies to comply with the Requisitions transmitted to them, to remove the Grievance complained of.

The Clause in the Mutiny Act during the late War is also relied upon, but with how much Propriety, few Words will evince.

The Acts of Assembly of each Colony, could have no obligatory Force beyond the Limits of each; but the Service of the Colony Troops, was not confined within the same Colony in which They were raised; it is therefore evident that the Provincial Legislatures had not an Authority adequate to the great Object of the military Operations in *America*, which was not merely the Defence of the Plantations, by Measures executed within their Boundaries, but the Enemy was attacked in his own Country, and for this Purpose the *British* and *American* Troops acted conjunctly. On this Occasion it was not only convenient, that the Troops employed in the same Service, should be subject to the same Discipline, but it was indispensably

penfably neceffary, that this Discipline fhould be eftablifhed by *Act of Parliament*, the Authority of *Provincial Legislatures* being deemed to be incompetent. And it is to be remarked, moreover, that the Provincial Troops were raifed and paid by the Colonies, and that it was in the Power of their Affemblies, a Power exercifed by fome of Them, to difband or reduce Them when They pleafed, and therefore their fupporting and keeping them up, was an effectual Consent to the Act of Parliament; but, as hath been fhewn, an internal Tax may be as completely and adequately laid in every Colony, by the Authority of the *refpective Affemblies*, as by the *British Parliament*, and therefore there is not the fame Neceffity for the Interpoftion of the Mother Country in this, as in the other Inftance, and the Colonies with Reference to the Stamp-Act, are not called upon to do any Act expreffive of their Affent to it, nor is it in their Power to hinder it's taking Effect in the full eft Extent.

The Act for *the Eftablifhment of a Post-Office in the Colonies* (9 Anne, c. 10.) comes the neareft to the Subject of any Regulation that hath been mentioned; but yet it is materially diftinguifhable from the Stamp-Act. For the fame Reason that an Act of Parliament was neceffary to fecure the Discipline of the Provincial Troops, acting in Conjunction with the *British Forces*, during the late War, the Authority of Parliament might be proper for the general Eftablifhment of a regular Post-Office; for as the Laws of each Colony are in their Operation confined within the Limits of each, prohibitory and compulfive Claufes to inforce a general Obfervance, without which the Eftablifhment would fail, might be eluded. If a Man fhould maliciously give a Wound in one Colony, and the wounded

wounded Person die in another, the Offender could not be convicted of Murder, because the whole Fact constituting that Crime, would not be cognizable in the Colony where the Wound was given, or the Death happened; and the same Principle is applicable to every other inferior Offence, and intimates in what Manner prohibitory Clauses might be evaded. This Matter therefore of the Post-Office, may be referred to the general Superintending Authority of the Mother-Country, the Power of the Provincial Legislatures being too stinted to reach it. In this View, and upon the Consideration of the general Convenience and Accommodation arising from the Establishment, the People of *America* have not complained of it, but if this Instance were more pertinent than it is, it would only prove what hath been too often proved before—When Men do not suspect any Designs to invade their Rights, and subdolous Steps taken to that End, are productive of immediate Convenience without pointing out their destructive Tendency, They are frequently involved in Ruin before they are aware of Danger, or that the Conduct flowing from the Negligence of innocent Intentions, may afford an Handle to Men of different Dispositions, for the Commission of Oppression—Of the Truth of these Observations the Histories of all People who have once been blessed with Freedom, and have lost it, exhibit abundant Examples.

When Instances are urged as an authoritative Reason for adopting a new Measure, They are proved to be more important from this Use of Them, and ought therefore to be reviewed with Accuracy, and canvassed with Strictness. What is proposed ought to be incorporated with what hath been done, and the Result of both stated

and considered as a substantive original Question, and if the Measure proposed is incompatible with the constitutional Rights of the Subject, it is so far from being a rational Argument, that Consistency requires an Adoption of the proposed Measure, that, on the contrary, it suggests the strongest Motive for abolishing the Precedent: when therefore an instance of *Deviation* from the Constitution is pressed as a Reason for the *Establishment* of a Measure striking at the very Root of all Liberty; though the Argument is inconclusive, it ought to be useful.

Wherefore if a sufficient Answer were not given to the Argument drawn from Precedents, by shewing that none of the Instances adduced are applicable, I should have very little Difficulty in denying the Justice of the Principle on which it is founded. What hath been done, if wrongful, confers no Right to repeat it. To justify Oppression and Outrage, by Instances of their Commission, is a kind of Argument which never can produce Conviction, though it may *their* Acquiescence, whom the Terror of greater Evils may restrain from resisting, and thus the Despotism of the East may be supported, and the natural Rights of Mankind be trampled under Feet. The Question of Right, therefore, doth not depend upon Precedents, but on the Principles of the Constitution, and hath been put upon it's proper Point already discussed, whether the Colonies are represented, or not, in Parliament.

As the Name of *Hampden* occurred to the Examiner in his Design of casting an oblique Reflection upon the Colonies, it is surprising he did not recollect, that very numerous Precedents have

I

been

been applied in the Defence of an arbitrary and oppressive Proceeding, destructive of the essential Principle of *English* Liberty. But though meer Acts of Power prove no Right, yet the real Opinion entertained of it, may be inferred from Forbearance; for Mankind are generally so fond of Power, that they are oftner tempted to exercise it beyond the Limits of Justice, than induced to set Bounds to it from the pure Consideration of the Rectitude of Forbearance. Wherefore if I had denied the Principle of this Kind of Reasoning, without shewing the Defects of the artificial painted Precedents which have been produced, I might still very consistently urge, that, the repeated and uniform Requisitions of the *English* Ministers, as often as Occasions for the *single Purpose of Revenue* have happened, transmitted to the Colonies to tax Themselves by Provincial Acts, and the Acts of Parliament regulating the Trade of the Plantations, as well as of *Ireland*, without one Instance, before the Stamp-Act, of a Tax imposed by Parliament upon either, for the *unmixed* Purpose of Revenue, prove, that the Imposition of a Tax upon them without their Consent, hath constantly been held to be inconsistent with their Constitutional Rights and Privileges. I have joined *Ireland* with the Colonies, and presume it will hardly be contended that *Ireland*, over which the Courts of Justice in *England* have a superintendant Power, is not, at least, as subject to *Great-Britain* as the Colonies are.

A most extraordinary Reason hath been given, why the Method of Requisition would have been improper, *viz.* that “ the Sums raised must be
 “ paid unto the Exchequer, and if levied by the
 “ Provincial Assemblies, the Parliament would
 “ have no Right to enquire into the Expenditure
 “ of

“ of them.” This is so extremely futile, that it would be almost absurd to bestow a serious Refutation upon it.

Why must the Sums raised be paid into the Exchequer? If the Intention is to apply them in the Colonies to any internal Purpose, why must they be remitted to *Great-Britain*? If Armies are to be kept up in *America*, to defend the Colonies against *Themselves*, (for it can hardly be imagined that Troops are necessary for their Protection against any foreign Enemy) or are to be employed in the national Service of Cropping the Ears, and Slitting the Nostrils of the Civil Magistrates, as Marks of Distinction *, why must the Money be paid into the Exchequer? Or, if it should be paid into the Exchequer, in order to be applied towards sinking the national Debt, why might not the Parliament enquire into the Application of it? Does the Examiner, in his Idea of the Parliament, figure to himself a Monster with an Hand that can reach to the utmost Verge of the *British* Dominions, and clutch and crush Millions of Subjects at a Gripe; but, when the Object is near, apt to be rendered, by some magical influence, so short, and so feeble, as not to be able to reach the *Exchequer*, or to squeeze the *Chancellor* of it?

We are assured that there never can be any irregular “ Attempts of the Prerogative upon our “ Rights, whilst we are blessed with a Prince of the “ glorious Line of *Brunswick* upon the Throne of “ *Great-Britain*.” I have all the confidence in the excellent Dispositions of our present most gracious Sovereign that an *Englishman* ought to have, but I can’t penetrate into Futurity; and, as the

* See the Narrative of the Outrages committed by the Soldiery, on Mr. Justice *Walker* in *Canada*.

Examiner hath not yet established the Character of a Prophet, I must consider this Assertion rather as a curious Specimen of Lip-Loyalty, I will not call it extravagant Adulation, than as a sober Recommendation, to surrender all those Guards and Securities of Liberty, which the Constitution of a Free Government hath provided; but, if the *British Americans* should ever be reduced to the unhappy Necessity of giving up their Natural Rights, and their Civil Privileges, I believe They would as soon make the Surrender to a Prince of the *Line of Brunswick*, as to any other Mortal, or Number of Mortals, in the Universe.

We have seen too a Piece in some of our late News-Papers, all bedawbed with the Lace of Compliment.—There is no End to human Ambition! It is perpetually restless, and pushing forward. If a little P—t—r † is raised to the Title of Excellency, and the Rank of a Kind of Viceroy, there is still a Summit beyond the Eminence to which he hath been elevated, that he is solicitous to gain.

It hath been truly said, that “ it will be no easy
 “ Task to persuade the *Americans* to forsake the
 “ Culture of their Lands, to leave the Ways their
 “ Fathers trod, and in which Themselves were
 “ trained, to drop a Business they already under-
 “ stand, in which they have had long Experience,
 “ and by which their Families have thriven, to
 “ change all their Habits of Thinking, and their
 “ Manner of Life, in order to apply to Arts
 “ which they do not know, or know but imper-

† A late notable Speech puts me in Mind of the Ingenuity of the Female Disputant, who used to silence Debate, by crying out, *God bless the King, and what have you to say to that?*

“ feetly,

“fectly, and that where Estates may be easily
 “raised by mere Tillage, the Temptations to
 “Manufacture are wanting, and Men, who can
 “depend upon their Industry alone, will not have
 “Recourse to Arts for Subsistence.” But that
 which Persuasion might not effect, and to which
 peculiar Circumstances might be adverse, Necessity, and an Alteration of those Circumstances, may accomplish. When the Alternative is proposed, and the one Part of it assures Success, and a comfortable Support by a moderate Application of Industry, familiarized by Use, and rendered easy by Practice; and the other affording only an Experiment of precarious Issue, calling for an Application unexperienced and dreaded, attended with Perplexity, and productive of irksome Anxiety, the Generality of Mankind would not hesitate in chusing the former. But, though it would gain the Preference of Choice, yet, if the Alternative is taken away, and Choice yields to Necessity, the Enterprizing will form Projects, the Judicious improve, the Industrious execute them. Success in one Instance, will animate the timid to make Trial of the Means which have succeeded under the Direction of others, stimulate the Phlegmatic, and rouse the Indolent—Should the Necessity, after a little Time, cease, new Habits may become as strong as the old, and the Alternative would therefore be altered, the Choice be an Act of Deliberation, rather than of blind Impulse; old Prejudices would be greatly abated, if not extinguished, new Attachments, perhaps, be formed. From this Change, different Consequences may be conjectured or foretold, and perhaps the most Confident might be disappointed by the Event. It is not so difficult for Men to strike into new Employments and Methods of Life,

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when

when impelled by the Urgency of Distress, nor so easy to call them back to their old Manner of Life, and divert them from new Pursuits experienced to be profitable, and *productive of the best Security against Oppression*, as some seem to apprehend.

It is not contended that the Colonies ought to be indulged in a general Liberty of Exporting and Importing every Thing in what Manner they please; but, since they are hindered from making all the Advantages they might do, and what Advantages might they not make, if under no Checks? They have a good Plea against all Rigour and Severity, not absolutely necessary. That *British* Manufactures come dearer, and not so good in Quality to *America*, as formerly, is a very general Complaint; and what Effect it may have, should they still grow dearer and worse in Quality, or the Colonies be rendered less able to consume them, is a Consideration which concerns *Great-Britain*, at least as much as the Colonies. An Increase of Price, and falling in the Goodness of Quality, is the usual Effect of Monopolies; there is no Danger of Foreigners taking Advantage of this Circumstance in *America*, whatever they may do in other Countries; but the Industry it may give Rise to in *America*, when other Circumstances concur, is not difficult to be foreseen.

It must be acknowledged, that the Balance of Trade between *Great-Britain* and her Colonies, is considerably against the latter, and that no Gold or Silver Mines have yet been discovered in the old *American* Settlements, or among the *Treasures* of the new Acquisitions. How then is this Balance to be discharged? The former Trade of the
Co-

Colonies, which enabled them to keep up their Credit with *Great-Britain*, by applying the Balance they gained against Foreigners, is now so fettered with Difficulties, as to be almost prohibited. In order therefore to reduce the Balance against them upon the Trade between the Colonies and *Great-Britain*, this Trade must be contracted, so as to bring the Scales to an Equilibrium, or a Debt will be incurred that cannot be paid off, which will distress the Creditor as well as the Debtor, by the Insolvency of the latter. The Income also of the Colonies, which was before invested in their Trade, will be diminished in Proportion to the Produce of the Stamp-Act, and therefore the Amount of that Produce must be drawn out, which will create a further Reduction of the Trade.

I confess that I am one of those who do not perceive the Policy in laying Difficulties and Obstructions upon the gainful Trade of the Colonies with Foreigners, or that it even makes any real Difference to the *English* Nation, whether the Merchants who carry it on with Commodities *Great-Britain* will not purchase, reside in *Philadelphia*, *New-York*, or *Boston*, *London*, *Bristol*, or *Liverpool*, when the Balance gained by the *American* Merchant in the Pursuit of that Trade centers in *Great-Britain*, and is applied to the Discharge of a Debt contracted by the Consumption of *British* Manufactures in the Colonies, and in this to the Support of the national Expence.

If in Consequence of the Obstructions, or Regulations as they are called, of their Commerce, and the Imposition of Taxes upon their Properties, the Colonies should only be driven to ob-
serve

serve the strictest Maxims of Frugality, the Consequence would rather be disagreeable than hurtful — Should they be forced to use new Methods of Industry, and to have Recourse to Arts for a Supply of Necessaries, the Difficulty in Succeeding would prove less than the Apprehension of Miscarrying, and the Benefit greater than the Hope of it. There are few People of the highest, and even of the middle Rank, but would, upon a strict Scrutiny into their ordinary Disbursements, discover some Articles that would admit of Defalcation.

A prudent Man, constrained to abridge his Outgoings, will consider what Articles of Expence may be retrenched or given up, without Distress or Discomfort; and if, after this saving, he still finds that his Expences exceed his Income, he will then consider of what Articles he can provide a Supply by the Application of domestic Industry, or whether some tolerable Substitute may not be fallen upon to answer the Purpose of what he can neither buy, nor hath Skill or Ability to fabricate. He will reflect that the Expedient which is at first but an indifferent Shift, Use and Experience will improve into Convenience, that Practice will confer Knowledge and Skill, and these Facility and Satisfaction; and though the Progress should be slow and gradual, Habit will grow with it, and produce Reconcilement and Content.

What are called in *North-America*, Luxuries, ought for the most Part to be ranked among the Comforts and Decencies of Life, but these will not be relinquished, if a Supply of Necessaries may be provided by domestic Industry — For Food,

Food, thank GOD, They do not, and for Raiment
They need not, depend upon *Great-Britain*.

Any thin Covering in the Summer to preserve Decency, and substantial Cloathing in the Winter to repel the Cold, are sufficient for domestic Servants and Labourers, and these may be provided without any Remora to the Business of Tillage, for there are many Intervals in which it is suspended. There are Times too, when the Employment is so slight as to be rather a moderate Exercise, than a laborious Task, when the Work that is done might be performed by half the Number of Labourers without excessive Exertion, or exhausting Fatigue. There are besides in most Families those, whom the Feebleness of immature Years, or their Sex, at particular Periods, or the Decrepitude of old Age, discharge from the Duties of Tillage. Leather, and Wool, and Cotton, and Flax, are at Hand: How easy then is the necessary Cloathing provided for those whose Station does not require any Attention or Regard to Fashion, or Elegance? so easy, that many have already gone into this Manufacture without any other Impulse, than the Spirit of Industry, which cannot bear Inaction, though the Savings on this Head have afterwards been neglected. In this very considerable Branch so little Difficulty is there, that a Beginning is Half the Work. The Path is beaten, there is no Danger of losing the Way, there are Directors to guide every Step. But why should they stop at the Point of cloathing Labourers, why not proceed, when Vigour and Strength will increase with the Progression, to cloath the Planters? When the first Stage is arrived at, the Spirits will be recruited, and the second should be undertaken with Alacrity, since it

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may

may be performed with Ease. In this too, the Experiment hath been made and hath succeeded. Let the Manufacture of *America* be the Symbol of Dignity, the Badge of Virtue, and it will soon break the Fetters of Distress. A Garment of Linsey Woolsey, when made the Distinction of real Patriotism, is more honourable and attractive of Respect and Veneration, than all the Pageantry, and the Robes, and the Plumes, and the Diadem of an Emperor without it. Let the Emulation be not in the Richness and Variety of foreign Productions, but in the Improvement and Perfection of our own—Let it be demonstrated that the Subjects of the *British* Empire in *Europe* and *America* are the same, that the Hardships of the latter will ever recoil upon the † former.

In Theory it is supposed that each is equally important to the other, that all partake of the Adversity and Depression of any. The Theory is just, and Time will certainly establish it; but if another Principle should be ever hereafter adopted in Practice, and a Violation deliberate, cruel, ungrateful, and attended with every Circumstance of Provocation, be offered to our fundamental Rights, why should we leave it to the slow Advances of Time

† Upon a Surmise that a certain noble L—d, was the Author of some Hardships inflicted upon the Colonies, a reproachful and mischievous Distinction hath been made by some People, between the Natives of S—t—d, and of E—g—d and *America*, which every judicious Friend of the Colonies must wish to see abolished, and an *Union* rather established than Divisions promoted. Every Man who has his all, and the Welfare of his Posterity at Stake, upon the Prosperity of *America*, at he hath an Interest in common with the Natives of it, ought to be considered as an *American*.—It is an effectual Way to make Men Adversaries, to call and treat Them as such—Besides, laying aside this Consideration, the Distinction is extremely

Time (which may be the great Hope and Reliance, probably, of the Authors of the Injury, whose View it may be to accomplish their Selfish Purposes in the Interval) to prove what might be demonstrated immediately. — Instead of moping, and pining and whining to excite Compassion; in such a Situation we ought with Spirit, and Vigour, and Alacrity, to bid Defiance to Tyranny, by exposing its Impotence, by making it as contemptible, as it would be detestable. By a vigorous Application to Manufactures, the Consequence of Oppression in the Colonies to the Inhabitants of *Great-Britain*, would strike Home, and immediately. None would mistake it. Craft and Subtily would not be able to impose on the most ignorant and credulous; for if any should be so weak of Sight as not to See, they would not be so callous as not to Feel it.—Such Conduct would be the most dutiful and beneficial to the Mother Country. It would point out the Distemper when the Remedy might be easy, and a Cure at once effected by a simple Alteration of Regimen.

Of this Measure should there be Apprehensions, and Ministerial Orators and Panegyriste endeavour

extremely unjust; for though there is too much Reason to believe that some Natives of *America*, and of *E—g—d*, who have resided in the Colonies, have been instrumental in bringing upon Us the Severities We deplore, yet hath it never been even surmised, I speak it to their Honour, that any Native of *S—t—d* residing, or that ever did reside in *America*, had in any Degree a Hand in them. It is much to be feared, if the Breach which a too eager Prosecution of the little Views of Party, hath made among the Inhabitants of a Colony heretofore the most distinguished for Prudence and Unanimity, should not be closed, in Consideration of the General Calamity, that *America* as well as *Denmark*, will furnish an Instance of the excessive Temerity of political Animosity.

to obviate them by observing, that "it would
 " always be easy to reinstate Things where they
 " were, and that by easing the Colonies of their
 " Burthens, and giving Encouragement to their
 " Produce, the Establishment of any Manufac-
 " ture in *America* might be prevented." We
 should mark well this Reasoning, and avail our-
 selves of the Instruction given by our Enemies,
 which would point out to Us the Remedy, and
 the more speedy the Application of it the better,
 and that would depend upon ourselves.

Besides the Urgency of such an Occasion (should
 it happen) there would be another powerful In-
 ducement to this simple, natural easy Method—
 The good or bad Success of one Attempt to op-
 press, generally produces or prevents future Im-
 positions. In common Life a Tameness in Bear-
 ing a Deprivation of Part of a Man's Property,
 encourages Rapacity to seize the rest.

Any Oppression of the Colonies, would intimate
 an Opinion of them I am persuaded they do not
 deserve, and their Security as well as Honour
 ought to engage them to confute. When Con-
 tempt is mixed with Injustice, and Insult with Vio-
 lence, which is the Case when an Injury is done
 to him who hath the Means of Redress in his
 Power; if the injured hath one inflammable Grain
 of Honour in his Breast, his Resentment will invig-
 orate his Pursuit of Reparation, and animate his
 Efforts to obtain an effectual Security against a Re-
 petition of the Outrage.

If the Case supposed should really happen, the
 Resentment I should recommend would be a legal,
 orderly, and prudent Resentment, to be expressed
 in

in a zealous and vigorous * Industry, in an immediate Use and unabating Application of the Advantages we derive from our Situation—a Resentment which could not fail to produce Effects as beneficial to the Mother Country as to the Colonies, and which a Regard to her Welfare as well as our own, ought to inspire us with on such an Occasion.

The General Assemblies would not, I suppose, have it in their Power to encourage by Law, the Prosecution of this beneficial, this necessary Measure; but they might promote it almost as effectually by their Example. I have in my younger Days seen fine Sights, and been captivated by their dazzling Pomp and glittering Splendor; but the Sight of our Representatives, all adorned in compleat Dresses of their own Leather, and Flax, and Wool, manufactured by the Art and Industry of the Inhabitants of *Virginia*, would excite, not the Gaze of Admiration, the Flutter of an agitated Imagination, or the momentary Amusement of a transient Scene, but a calm, solid, heart-felt Delight. Such a Sight would give Me more Pleasure than the most splendid and magnificent Spectacle the most exquisite Taste ever painted, the richest Fancy ever imagined, realized to the View—as much more Pleasure as a good Mind would receive from the Contemplation of Virtue, than

* The ingenious Mr. *Hume* observes in his History of *James I*, that the *English* fine Cloth was in so little Credit even at Home, that the King was obliged to seek Expedients by which he might engage the People of Fashion to wear it, and the Manufacture of fine Linen was totally unknown in the Kingdom—What an Encouragement to Industry! This very penetrating Gentleman also recommends a *mild Government*, as a proper Measure for preserving the Dominion of *England* over her Colonies.

of

of Elegance; of the Spirit of Patriotism, than the
Ostentation of Opulence.

Not only, "as a Friend to the Colonies," but
as an Inhabitant having my All at Stake upon their
Welfare †, I desire an "Exemption from Taxes
"imposed *without my Consent*, and" I have reflect-
ed longer than "a Moment upon the Conse-
quences:" I value it as one of the dearest Privi-
leges I enjoy: I acknowledge Dependence on
Great-Britain, but I can perceive a Degree of it
without Slavery, and I disown all other. I do not
expect that the Interests of the Colonies will be
considered by some Men, but in Subserviency to
other Regards. The Effects of Luxury, and Ve-
nality, and Oppression, Posterity may perhaps ex-
perience, and SUFFICIENT FOR THE DAY WILL BE
THE EVIL THEREOF.

† See *The Regulations*, &c. Page 111.

A P P E N D I X.

BY the 12th *Charles II.* the Colonies are restrained from sending the Products enumerated in the Act to *any foreign Ports*.—By the 13th of the same King, they are prohibited from importing Commodities of the Growth or Manufacture of *Europe, except from GREAT-BRITAIN*, saving a few Articles mentioned in this Act.

A Law, which restrains one Part of the Society, from *exporting* its Products to the most profitable Market, *in favour of another*; or obliges it to *import* the Manufactures of one Country that are dear, instead of those of another that are cheap, is effectually a Tax. For if the profitable *Exportation*, and the *Importation* of the cheaper Commodities were permitted, a Tax equal to such Gain in the former Case, and to the Saving in the latter, would leave that Part of the Society in the same State and Condition, as if under the Prohibition and Restriction above-mentioned. As for Instance, in the Case of *Importation*.—Suppose a Country which I will distinguish by the Name of A, can purchase Commodities of the same Kind, and equal Goodness, 20 per Cent. cheaper of B, than she can of C;—then it is clear, if A is prohibited from taking these Commodities of B, and obliged to purchase them of C, that A is just in the same State and Condition, as if she were allowed to purchase the Commodities of B, on paying thereon a Duty of 20 per Cent to C.—This

In-

Instance, *mutatis mutandis*, is equally applicable to the Case of *Exportation*. Hence it appears, that the Country favoured by the Prohibition and Restriction, gains as much thereby, as it would do, if the proportionate Tax were paid to it, upon taking off the Prohibition and Restriction; or, in other Words, the Profit which the one is hindered from making, in Consequence of the Prohibition and Restriction, is made by the other, in whose favour they have been introduced.

It hath been observed by a well-received Writer on the Subject of Trade, that “ a Prohibition acknowledges the Commodities it is laid on, to be good and cheap, otherwise it were needless; and “ a Prohibition on the Goods of any one Nation, “ gives a Monopoly to other Nations, that raise the like.”—Again—“ A Prohibition against “ any one Nation, makes other Nations, having “ the like Commodities, take the Advantage and “ raise their Price, and is therefore a Tax †.”

If a Prohibition, extending to one Nation only in favour of many, confers a Monopoly, and is therefore a Tax; a Prohibition extending to all other Nations in favour of one, is indubitably so.

From *Virginia* and *Maryland* are exported, *communibus Annis*, 90,000 Hogsheads of Tobacco to *Great-Britain*, of which it is supposed 60,000 are thence re-exported. But these Colonies not being permitted to send their Tobacco *immediately* to foreign Markets *distributively*, in proportion to their Demands, the re-exported Tobacco pays double Freight, double Insurance, Commission and other Shipping Charges. The whole Quantity is, moreover, of Course much depreciated; for going all to *Great-Britain*, the *Home-Market* is overdone, by

† Sir Matthew Decker.

which

which Circumstance, the Quantity required for *Home Consumption* is without Doubt purchased cheaper than it would be, if no more than *that* were imported into *Great-Britain*, and of this Glut Foreigners, and Purchasers on Speculation also, avail themselves. Besides, a great deal of the Tobacco getting home late, the rigorous Season hinders it's being re-shipped for some Months; during which, it is dead on Hand, and moreover gives Advantage to Buyers—a Loss to the Planter, which would be avoided, if the Tobacco could be immediately sent to it's proper Market.—

The above quoted Author hath computed the Duties, Excises, &c. on Leather, at 50 per Cent. and the Artificial Value of a Bale of *English Cloth* arising from Taxes, Monopolies and ill-judged Laws at 51 per Cent. by which, he means that every Hundred Pounds Worth of that Species of Manufacture, includes in that Sum 51*l.* of Taxes. His Computation is, without Doubt, too low now, Taxes having been increased very considerably since the Time in which he wrote.

	per Cent.
In the gross Sum of the artificial Value, he computed the Amount of the Taxes to be full	31
Monopolies and ill-judged Laws, therefore stand at	20
	<hr/> 51
A Bale of <i>English Cloth</i> costing	£. 100
Includes an artificial Value of	51
	<hr/>
The artificial Value subtracted, leaves the natural Value	49
L	But

But lest the Estimate should be objected to on account of it's including 20 per Cent. for Monopolies, &c. I will state the artificial Value arising from Taxes, *only* to be 33*l.* 6*s.* 8*d.* which will hardly be objected to, for being too high.

The Colonies, it is suppos'd, take,
 annually, Manufactures from } *£.* 2,000,000
Great-Britain, to the Amount of }

Therefore they pay an ANNU- } *£.* 666,666: 13: 4
 AL TAX of - - - }

To which must be added
 Freight, Insurance, Com-
 mission and Shipping Char-
 ges, amounting at least
 to 10 per Cent. the Half of
 which, as it might be saved } 100,000: 00: 0
 by back-freight, &c. were
 the Colonies permitted to
 import *directly* the Manu-
 factures of foreign Coun-
 tries, is computed at - }

What may be the Amount
 from the Restrictions, on
 all the Enumerated Com-
 modities (except Tobacco)
 exported from all the Co-
 lonies, with Subsidies re-
 tained and Duties laid,
 upon the most moderate
 Computation may, I sup-
 pose, be stated at - } 150,000: 00: 0

£. 916,666: 13: 4

Part of the Commodities sent from *Great-Britain*
 to the Colonies, is first imported into *Great-Britain*
 from

from *foreign* Countries; but the Estimate is not exceptionable on that Account, for the general Calculation on the advanced Price of *British* Manufactures, is extremely low.—Several of the foreign Commodities receive their Perfection in *Britain*.—All of them are enhanced by the Articles of double Freight, Insurance, Shipping, Charges, the Merchant Importer's Commission, the *English* Tradesman's Profit, the Merchant Exporter's Commission, and Subsidies retained. If the Colonies were not restrained from directly importing foreign Commodities, they would, it is presumed, pay less for them, even by 50 per Cent. than they do at present.

It hath been already observed, that there are shipped from *Virginia* and *Maryland*, annually, at an Average, about 90,000 Hogsheads of Tobacco, 60,000 of which, or upwards, are re-exported from *Great Britain*, to foreign Markets; but they pay to *Great-Britain*, for the Reasons above explained, 3*l.* per Hogshead, *i. e.* the Sum of 3*l.* upon each Hogshead might be saved if the Tobacco might be *immediately* and *distributively* sent to the respective Markets, in Proportion to their Demands; and an equal Sum is paid also to *Great-Britain*, upon the same Rule of Computation, *i. e.* that these Colonies pay what they might save, if not restrained. For, though the *English* Manufacturer gets the Tobacco he wants, without the double Freight, &c. yet he has the Advantage of the Glut, and an Opportunity of buying it as cheap, as it is sold in *Great-Britain* for the foreign Markets, before the Charges of double Freights, &c. are incurred, and therefore the Planter gets no more for his Tobacco sold for *Home*, than that which is sold for *Foreign* Consumption, and consequently

sequently pays as much for it. For there is great Reason to imagine, that if these Colonies were at Liberty to send their Tobacco *immediately* where they pleased, the Market in *England* would be as profitable as those of *France, Holland, &c.*—But when the Tobacco, under the present Regulation, is purchased for Re-Exportation, the Purchaser undoubtedly considers the Expence he is to be at, before he gets to the foreign Market, as Part of the Price of the Commodity, and therefore lowers his Price to the Merchant in Proportion.

The above Sum of 3*l.* for }
each Hoghead, makes } £. 270,000: 00: 0

The Amount of the sundry }
Impositions and Restrictions }
before mentioned, } 916,666: 13: 4
brought forward, }

Total Amount of Taxes to }
Great-Britain - - - } 1,186,666: 13: 4

Besides the above Amount }
of Taxes paid to the Mo- }
ther-Country, the Colo- }
nies in *North-America* sup- }
port their own Civil Estab- }
lishments, and pay Quit- }
Rents to the Crown and }
Proprietaries, to the A- }
mount (supposing 600,000 }
Taxables, at the moderate }
Rate of 15*s.* each) of - }

Total Amount of Taxes paid }
to our Mother-Country, }
and the Support of our Ci- }
vil Establishment, *annually*, } 1,636,666: 13: 4

Supposing

Supposing the clear annual Rents
 of the Lands in *North-America*,
 (unrestrained by Acts of Par-
 liament) wou'd amount to - -) £. 2,500,000

It appears then, that the whole Tax is upwards of 65 per. Cent; and if, therefore, the artificial Value of One Hundred Pounds Worth of *British* Manufacture, (Cloth for Instance) is, according to the above Computation, 33 l. 6 s. 8 d. there was, before the *Stamp-Act*, a Tax paid by the *North-Americans*, near double of that which is paid by the Inhabitants of *England*. If the above Sum of 33 l. 6 s. 8 d. is too low, and ought to be increased, then the Tax on *North-America*, on the Article of Manufactures imported from *Britain*, must also be increased.

It should seem that the Maxim of every Tax upon Labour falling *ultimately* upon the Consumer of its Product, cannot be strictly applied to the Product of the *North-American* Colonies. For, as they are obliged to send their Commodities to some Port in the *British* Dominions, or (where Indulgence is granted to send some of them to other Places) deprived in great Measure of the Benefit of Returns, they are by this Means subjected to dead Freight; and moreover, being confined in their Consumption to a particular Manufacture, and the Commodities they export, being chiefly raw Materials, they have not the Means generally in the Power of other People, by raising the Price of their Labour, to throw their Burthens upon others; but are, for the most Part, obliged, both in their Exports and Imports, to submit to an arbitrary Deter-

Determination of their Value, though even below first Cost.

The sanguine Genius of one of the *Anti-American* Writers, brings to my Mind the Fable of the Boy and the Hen that laid *Golden Eggs*. He is not content to wait for the Increase of the *Public Revenue*, by that gradual Process and Circulation of Property, which an Attention to the commercial Interests of the Nation hath established, but is at once for tearing away the Embryo, which, in due Time, might be matured into Fullness of Size and Vigour; without ever reflecting, that when the Hen is destroyed by his Violence, there will be no more *GOLDEN EGGS*. — The following Passage justifies this Observation——

“ If we have from the Colonies their ALL already, we only have it (says he) by Trade, and not by Taxes; and surely it is not the same Thing, whether the Wealth be brought into the Public Coffers by Taxes, or coming in by Trade, flows into the Pockets of Individuals, and, by augmenting his Influence with his Wealth, enables the Merchant to plunge us into new Wars and new Debts for his Advantage*.”

The Man who thinks the Gains of the Merchant are dangerous, and that the Welfare of the Manufacturers, the Landholders, &c. doth not depend upon the Trade and Navigation of *Great-Britain*, is very consistently an Advocate for a Measure which hath a direct Tendency to check them; but whether this Opinion, and very consistent Conduct might not be more serviceable in some

* The Objections to the Taxation, &c. considered. By

Soame Jenyns.

other

other Employment, than in that of a L—— of T——, is submitted to their Consideration, who are the Judges of Merit, and the Dispensers of its Rewards.

For a Reason, which the above Opinion suggests, I shall subjoin an Estimate of the Duties upon Tobacco consumed in *Great-Britain*, and of the Profit to the Planter on that Tobacco.——The intelligent Reader will not apprehend it to be my Meaning, that the Planter pays out of his Pocket all the Duties laid on Tobacco, or be at a Loss to infer, that the Estimate has been made with no other View, than to obviate the Principle others by their Writings seem to adopt.

The old Subsidy is One Penny per Pound, 25 per Cent. deducted.

All the other Duties are Seven Pence, and one Third per Pound, 15 per Cent. deducted.

An Hogshead of Tobacco, at an Average, contains 952 lb.

The whole Duties therefore, - - £. 27: 14: 0

The Amount of the whole	}	£. 831,000: 00: 0
Duties on 30,000 Hog-		
sheads, is - - - -		

The full clear Proceeds of an Hogshead of Tobacco, reckoning 952 lb. in each Hogshead, has not, on an Average for some Years past, exceeded 4l. † wherefore, on 30,000 Hogsheads, the Planters

† See before, p. 76. The attentive Reader will observe, that the neat Proceeds of a Hogshead of Tobacco, at an Average, are 4l. and the Taxes 3l.—, together, 7l.—Quere, How much per Cent does the Tax amount to, which takes from the two wretched Tobacco Colonies, 3l. out of every 7l.? And how deplorable must their Circumstances appear, when their vast Debt to the Mother-Country, and the annual Burthen of their civil Establishments are added to the Estimate? In these two Colonies there are upwards of 180,000 Taxables.

get 120,000 *l.* How much of the above Sum of 831,000 *l.* is nett to the Revenue, I shall not undertake to say; but I presume it may be safely asserted, that no Part of this, or any other Public Money, is touched by any *Americans*, whether *they have great Powers of Speech* or not; though any Gentleman who might be affected by it, is not to be blamed for his Apprehension, that a sudden Importation of a certain Commodity, might hurt the home Market.

The Sum of the Taxes, paid in *North-America*, will appear enormous to those, who, having been told that these Colonies pay only 7 or 800 *l.* per Annum, in Consequence of Taxes laid there, might be led, in their Dependence upon Ministerial Candor, to believe, that they paid no more elsewhere;—but to others, who are better acquainted with the Subject, the Computation will appear too low. — From these Observations it may be inferred what vast Wealth in Taxes only, the Mother-Country has, in the Course of a Hundred Years, drawn from her Colonies; and how profoundly well-informed the Writer is, who, with equal Pertinency and Modesty pronounces, “that it is now high Time
“ for *England* to draw some little Profit from her
“ Colonies, after the vast Treasure she has expended
“ on their Settlement.”

I confess that the above Computations are conjectural, but I believe they are probable. I mean that those, who are best acquainted with the Subject, will think the Charge upon *North-America* is not exaggerated, and which I think very naturally accounts for the enormous Debt she at present labours under to the Mother-Country.

Dr. Davenant observes, that, “if ever any
“ Thing great or good be done for the *English*
“ Colonies,

“ Colonies, Industry must have its due Recom-
 “ pence, and that can't be without Encourage-
 “ ment to it, which, perhaps is only to be brought
 “ about by *confirming their Liberties*, and establishing
 “ good Discipline among them;—that, as they see
 “ they are a Free People, in Point of Govern-
 “ ment, so they may, by Discipline, be kept free
 “ of the Mischiefs that follow Vice and Idleness.
 “ And, as great Care should be taken in this Re-
 “ spect, so without Doubt, it is adviseable, that
 “ no little Emulation of private Interests of Neigh-
 “ bour Governors, nor that the Petitions of *bun-*
 “ *gry Courtiers* at home, should prevail to discour-
 “ age those particular Colonies, who, in a few
 “ Years, have raised themselves by their *own*
 “ *Charge, Prudence and Industry*, to the Wealth
 “ and Greatness they are now arrived at, *without*
 “ *any Expence to the Crown*; upon which Account,
 “ any *Innovations*, or *Breach* of their *original Char-*
 “ *ters*, (besides that it seems a *Breach* of the *Pub-*
 “ *lic Faith*) may, peradventure, not tend to the
 “ King's Profit.” Excellent Observation! but
 how little it hath been regarded, the present
 deeply afflicting Distress of the Inhabitants of
North America demonstrates; — a Distress suffi-
 cient to drive Men into Despair, who are not ani-
 mated by the Hope, that — DEUS DABIT HIS
 QUOQUE FINEM.

The E N D.

M

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OF THE
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THE
LATE REGULATIONS,
RESPECTING THE
British Colonies
ON THE CONTINENT OF
AMERICA
CONSIDERED:

In a LETTER from a Gentleman in PHILADELPHIA to his Friend in LONDON.

John Dickinson
Profunt minus recte excogitata; cum alios incitent saltem
ad veritatis investigationem. FULB. A BARTOL.

PHILADELPHIA Printed:
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THE

LATE REGULATIONS

RESPECTING THE

LATE REGULATIONS

British Colonies

British Colonies

AMERICA
CONSIDERED
SIR

W^hen I received your letter of the 10th inst. I was
glad to find that the late regulations
respecting America were well received.
I have been very anxious to see them in
be especially anxious to see them in
also to Great Britain. I have thought I
was entering into an engagement which
would oblige me to give you a full and
of a letter. But now you have been so
large the reasons in support of this opinion
and I always think myself bound to
I have been very anxious to see them in
I have been very anxious to see them in

THE
LATE REGULATIONS,
RESPECTING THE
British Colonies,
CONSIDERED.

S I R,

WHEN I last wrote to you, and said, "that the late measures respecting America, would not only be extremely injurious to the Colonies, but also to Great Britain," I little thought I was entering into an engagement, which would oblige me to exceed the usual limits of a letter : but since you desire to have at large the reasons in support of this opinion, and I always think it my duty to comply with

with your requests, I will endeavour in the clearest manner I can, to lay my sentiments before you.

The American continental colonies are inhabited by persons of small fortunes, who are so closely employed in subduing a wild country, for their subsistence, and who would labour under such difficulties in contending with old and populous countries, which must exceed them in workmanship and cheapness, that they have not time nor any temptation to apply themselves to manufactures.

Hence arises the * importance of the colonies

* It has been said in the House of Commons, when complaints have been made of the decay of trade to any part of Europe, " That such things were not worth regard, as Great Britain was possessed of colonies that could consume more of her manufactures than she was able to supply them with.

" As the case now stands, we shall shew, that the plantations are a spring of wealth to this nation, that they work for us, that their treasure centers all here, and that the laws have tied them fast enough to us; so that it must be through our own fault and mismanagement, if they become independent of England.

DAVENANT on the Plantation Trade.

" It is better that the islands should be supplied from

nies to Great Britain. Her prosperity depends on her commerce; her commerce on her manufactures; her manufactures

from the northern colonies than from England, for this reason, the provisions we might send to Barbadoes, Jamaica, &c. would be unimproved product of the earth, as grain of all kinds, or such product where there is little got by the improvement, as malt, salt, beef, and pork; indeed the exportation of salt-fish thither would be more advantageous, but the goods which we send to the northern colonies are such, whose improvement may be justly said, one with another, to be near four-fifths of the value of the whole commodity, as apparel, household-furniture, and many other things."

Idem.

"New England is the most prejudicial plantation to the kingdom of England; and yet, to do right to that most industrious English colony, I must confess, that though we lose by their unlimited trade with other foreign plantations, yet we are very great gainers by their direct trade to and from Old England. Our yearly exportations of English manufactures, malt and other goods, from hence thither, amounting, in my opinion, to ten times the value of what is imported from thence; which calculation I do not make at random, but upon mature consideration, and, peradventure, upon as much experience in this very trade as any other person will pretend to; and therefore, whenever reformation of our correspondency in trade with that people shall be thought on, it will, in my poor judgment, require great tenderness, and very serious circumspection."

Sir JOSIAH CHILD's Discourse on Trade.

"Our plantations spend mostly our English manufactures, and those of all sorts almost imaginable, in egregious quantities, and employ near two-thirds of all

tures on the markets for them; and the most constant and advantageous markets are afforded by the colonies, as in all others

the all our English shipping; so that we have more people in England, by reason of our plantations in America."

Idem.

Sir Josiah Child says, in another part of his work, "That not more than fifty families are maintained in England by the refining of sugar." From whence, and from what Davenant says, it is plain, that the advantages here said to be derived from the plantations by England, must be meant chiefly of the continental colonies. See notes to pages 12 and 13.

"I shall sum up my whole remarks on our American colonies with this observation, that as they are a certain annual revenue of several millions sterling to their mother country, they ought carefully to be protected, duly encouraged, and every opportunity that presents improved for their increasement and advantage, as every one they can possibly reap must at last return to us with interest."

BEAWES'S LEX. Merc. Red.

"We may safely advance, that our trade and navigation are greatly encreased by our colonies, and that they really are a source of treasure and naval power to this kingdom, since they work for us, and their treasure centers here. Before their settlement our manufactures were few, and those but indifferent; the number of English merchants very small, and the whole shipping of the nation much inferior to what now belongs to the northern colonies only. These are certain facts. But since their establishment our condition has altered for the better, almost to a degree beyond credibility. Our manufactures are prodigiously encreased, chiefly by the demand for them in the plantations, where they at least take off one-half, and supply

the † rest of Europe interferes with her, and various accidents may interrupt them. The benefit from hence is at *present* immense; but in *future* times, when America shall be more fully peopled, must exceed with prudent management the warmest wishes of a British patriot.

Our chief productions are provisions, naval stores, furs, iron and lumber. A few colonies yield tobacco and indigo. Some of these commodities are necessary to Great Britain; but all that she requires are vastly insufficient to pay for her manufactures which we want. The productions of some of the southern colonies may perhaps be equal to their demands, but the case is widely different with the northern; for in these,

ply us with many valuable commodities for exportation, which is as great an emolument to the mother kingdom, as to the plantations themselves."

POSTLETHWAYT's Dict. of Trade and Com.

† "Most of the nations of Europe have interfered with us, more or less, in divers of our staple manufactures, within half a century, not only in our woollen, but in our lead and tin manufactures, as well as our fisheries."

POSTLETHWAYT, *ibid.*

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the importations from Great Britain are computed to be generally more than double the value of their immediate exportations to that kingdom.

The only expedient left us for making our remittances, is to carry on some other trade, whereby we can obtain silver and gold, which our own country does not afford. Hence it is evident, that if our taking off and paying for her manufactures, is beneficial to Great Britain, the channels by which we acquire money for that purpose, ought to be industriously kept open and uninterrupted.

Our trade with Spain, Portugal, and the foreign plantations in the West Indies, have chiefly answered this end, though with much difficulty, the mother-country having long since drawn the * commercial cords with

* As far as regulations are requisite to confine the commerce of the colonies to British subjects and to British ships, to give Great Britain the preference in being supplied with naval stores, so essential to her strength at sea, with commodities necessary for carrying on her woollen manufactures, or such articles as can bear high duties upon them, and thereby make a

which the colonies are bound, extremely tight upon them. Every thing produced here, that Great Britain chuses to take to herself, must be carried to that kingdom *† only*—Every thing we chuse to import from considerable addition to the revenue, or, as far as they are requisite, to prevent the colonies from being supplied with any thing in the place of British manufactures, they may be reasonable. These regulations, it is apprehended, establish the basis of the British power, and form such a firm connection between the mother country and her colonies, as will produce all the advantages she ought to wish for, or that they can afford her. Any further attempt to shackle some of the colonies in favour of others, or to advance the revenue in America by restraining her trade, is but regulating, by a severe exercise of power, what wants no regulation, and losing by too much haste to gain. (*See notes to pages 25, 26.*) Unnecessary and irritating restrictions will at last cast contempt and hatred on those substantial ones, that length of time, and the natural reverence of colonies for their mother country, would have consecrated; for discontented minds are not apt to distinguish. “Narrow limited notions in trade and planting are only advanced by, and can only be of use to particular persons, but are always injurious to the public interests, in preventing the full employment of our own people, and giving our rivals and competitors in trade the opportunity of employing greater numbers of theirs, producing greater quantities of merchandizes, and underselling us at foreign markets.” *POSTLETHWAYT’S Dict. of Trade and Com.* *†* *Montesquieu*, speaking of the contract made by Poland for selling all her corn to Dantzick only; and another of the like nature between some Indian Princes and

from Europe, must be shipped in * Great Britain.—Heavy duties have been laid on our importations from the foreign plantations.

However, under all these restraints, and some others that have been imposed on us, we have not till lately been unhappy. Our spirits were not depressed. We apprehended no design formed against our liberty. We for a long time enjoyed peace, and were quite free from any heavy debt, either internal or external. We had a paper currency which served as a medium of domestic commerce, and permitted us to employ all the gold and silver we could acquire, in trade abroad. We had a multitude of markets and the Dutch for spices, says, "These agreements are proper for a poor nation, whose inhabitants are satisfied to forego the hopes of enriching themselves, provided they can be secure of a certain subsistence; or for nations, whose slavery consists either in renouncing the use of those things which nature has given them, or in being obliged to submit to a disadvantageous commerce."

* Except salt from any part of Europe for the fisheries of Newfoundland, New-England, New-York, and Pensylvania, and a few things from Ireland.

for

for our provisions, lumber and iron. These allowed liberties, with some others we assumed, enabled us to collect considerable sums of money for the joint benefit of ourselves and our mother-country.

But the modern regulations are in every circumstance afflicting. The remittances we have been able to make to Great Britain, with all the licence hitherto granted or taken, and all the money brought among us in the course of the late war, have not been sufficient to pay her what we owe; but there still remains due, according to a late calculation made by the English merchants, the sum of four millions sterling. Besides this, we are and have been for many years heavily taxed for the payment of the debts contracted by our efforts against the common enemy. These seem to be difficulties severe enough for young colonies to contend with:

The last * sinks our paper currency very

* While the quantity of paper currency is proportioned to the uses for it, it must be beneficial; and therefore to sink it below that quantity must be prejudicial.

fast

fast. The former sweeps off our silver and gold in a torrent to Great Britain, and leaves us continually toiling to supply from a number of distant springs the continually wasting stream.

Thus drained, we are prohibited by new and stricter restraints being laid on our trade, from procuring these coins as we used to do; and from instituting among ourselves bills of credit in the place of such portions of them as are required in our internal traffic; and in this exhausted condition, our languishing country is to strive to take up and to totter under the additional burthen of the *Stamp Act*.

In defence of the prohibition to institute *bills of credit*, it may be said, "that some few colonies, by injudicious emissions of paper currency, did great injury to individuals." It is true; but it is as true, that others † always supported the credit of their

† No attempt was ever made in this province, and some others, to pay English debts any otherwise than according to the rate of Exchange; and no complaint was ever made of injustice from the depreciation of the currency.

bills in such a manner, that their emissions were of vast benefit both to the provinces and to Great Britain. The inconveniencies under which the colonies laboured before these emissions, are well remembered, and were produced by the same cause that distresses us at this time ; that is, by Great Britain's taking off all our gold and silver. There was then so little money among several of them, that a stop was put in a manner to buying and selling, and even shopkeepers were obliged to barter their goods for food. The effect produced by these emissions was surprizing—Trade revived ; and the remarkable and immediate || increase

|| Value of the exports from England to Pennsylvania at different periods.

In 1723	they were	£15,992	19	4
1730	-	48,592	7	5
1737	-	56,690	6	7
1742	-	75,295	3	4

In the year 1723 the first bills of credit were emitted in Pennsylvania to the value of 45000l. In 1728, part of the first emission being then sunk, 30000l. more were emitted. It appears from the account above, that in seven years, from 1723 to 1730, the exports increased £32,599 8 1 sterling. In 1738, great part of the preceding emissions being then sunk, there was

crease of our importations shewed how advantageous they were to Great Britain. If any inconveniences were feared from this kind of currency, means might have been found to prevent them, without utterly abolishing it: but now, the apprehension of mischiefs that might have been more easily obviated, has deprived us of real benefits.

Perhaps no mode could be devised more advantageous to the public, or to individuals, than an emission, and re-emission, amounting in the whole to 80000*l*. In five years afterwards, it appears by the account above, the exports increased near 20000*l*. sterling.

In later times, when larger emissions have been made, the exports have proportionably increased. In 1755, 55000*l*. were emitted; and in 1756, 30000*l*. In 1757, the exports amounted to £268,426 6 6. Afterwards our emissions were still greater, and in one year of the war, the exports rose to more than 700,000*l*. sterling.

It is not pretended, that the increase of our importations is solely owing to the emissions of paper money, but it is thought to be a very great cause of that increase. It is undoubtedly owing in part to the increase of people by propagation, and the influx of foreigners. But such great and sudden increases as have been mentioned in the short space of seven or five years, from 1723 to 1730, and from 1737 to 1742, could not, in any great degree, proceed from the increase by propagation; and at that time I think foreigners did not

flow

than our method of emitting bills in this province for our own use. They are lent out upon good security, chiefly real, at the interest of 5 per cent. The borrowers are allowed a long term for payment, and the sums borrowed being divided into equal portions, they are obliged to pay one of these with the interest of the whole, every year during the term.

flow in upon us in such numbers as they since have done. In the war large sums were brought among us for the maintenance of the fleets and armies, it is true; but that our currency was then of great utility is evident, because when the greatest quantity of it was passing, bills of exchange were lower than they were for a long time before, or have been since.

It may be objected, that the complaint of the scarcity of money in America, particularly in this province, cannot be well founded, as we have lately had such large emissions. I am very sensible how liable persons are to errors in questions of this nature, and therefore I think myself obliged to speak with diffidence on the subject. Perhaps the following observations may in some measure answer the objection. 1st. About one-half of the emissions is sunk. 2dly. A very great part of the bills now circulating are passing in the neighbouring provinces. 3dly. Our gold and silver are sent to Great Britain, so that but small quantities thereof are now current among us; and therefore we must almost entirely rely on our paper for the medium of domestic commerce. Lastly, It does not seem probable, that we should have heard such great complaints of the scarcity of money, if the extreme restrictions of our commerce, had not so generally prevented our usual methods of acquiring it.

This renders payments very easy, and as no person is permitted to borrow a large sum, a great number are accommodated. The consequences of such regulations are obvious. These bills represent money in the same manner that money represents other things. As long therefore as the quantity is proportioned to the uses, these emissions have the same effects, that the gradual introduction of additional sums of money would have. People of very small fortunes are enabled to purchase and cultivate land, which is of so much consequence in settling new countries, or to carry on some business, that without such assistance they would be incapable of managing: for no private person would lend money on such favourable terms. From the borrowers the currency passes into other hands, encreases consumption, raises the prices of commodities, quickens circulation, and, after communicating a vigour to all kinds of industry, returns in its course into the possession of the borrowers,

borrowers, to repay them for that labour which it may properly be said to have produced. They deliver it, according to the original contracts, into the treasury, where the interest raises a fund, without the imposition of taxes, for the public use.

While emissions are thus conducted with prudence, they may be compared to springs, whose water an industrious and knowing farmer spreads in many meandering rivulets through his gardens and meadows, and after it has refreshed all the vegetable tribes it meets with, and has set them a growing, leads it into a reservoir, where it answers some new purpose.

If it could be possible to establish a currency throughout the colonies on some foundation of this kind, perhaps greater benefits might be derived from it, than would be generally believed without the trial.

With respect to the restrictions laid on our trade to foreign plantations, it has been

alleged as a reason for them; "that our islands ought to be encouraged." They ought to be: but should the interest of one colony be preferred to that of another? Should the welfare of millions be sacrificed to the magnificence of a few? If the exorbitant profits of one colony must arise from the depression of another, should not such injustice be redressed?

There is a vast difference to be made in calculating the gains of any particular branch of business to the public, and to individuals. The advantages to the last may be small, and yet great to the first, or the reverse. The statutes made to restrain the trade of the continent in * favour of the islands;

* "The agents for New York, in their contest with the sugar colonies, affirmed, That their winters being severe, obliged them to take off more of the woollen manufactures of this kingdom (for which they remitted gold and silver) than all the islands (Jamaica excepted) put together; and which I believe has remained uncontradicted."

BEAWES'S Lex Merc. Red.

If one province then exceeded all our West Indies, except Jamaica, in this particular, what proportion would

islands, seem to tend rather towards promoting

would that single island bear now to all the rest of the continental colonies?

The following account of the exports from England to the Northern Colonies, and to the West India islands, will shew they were nearly equal some time ago; that those to the Northern colonies now vastly exceed, and are prodigiously encreasing, while those to the islands have continued nearly the same.

From 1744 to 1748, inclusive.

Northern Colonies.				West India Islands.			
1744	-	£640,114	12 4	-	-	£796,112	17 9
1745	-	534,316	2 5	-	-	503,669	19 9
1746	-	754,945	4 3	-	-	472,994	19 7
1747	-	726,648	5 5	-	-	856,463	18 6
1748	-	830,243	16 9	-	-	734,095	15 3
<hr/>				<hr/>			
Total	£3,486,268	1 2		Total	£3,363,337	10 10	
				Difference			
				122 930 10 4			

£3,486,268 1 2

From 1754 to 1758, inclusive.

Northern Colonies.				West India Islands.			
1754	-	£1,246,615	1 11	-	-	£685,675	3 0
1755	-	1,177,848	6 10	-	-	694,667	13 3
1756	-	1,428,720	18 10	-	-	733,458	16 3
1757	-	1,727,924	2 10	-	-	776,488	0 6
1758	-	1,832,948	13 10	-	-	877,571	19 11
<hr/>				<hr/>			
Total	£7,414,057	4 3		Tot.	£3,767,841	12 11	
				Difference			
				3,646,215 11 4			

£7,414,057 4 3

Tot. for the Northern Colonies in the first term

Ditto, in the second term

£3,486,268 1 2

7,414,057 4 3

Increase, £3,927,789 3 1

moting † partial than general interests, and it appears to me no paradox to say, that the public would be as great a gainer, if estates there were so * moderate, that not a tenth part of the West India gentlemen, who

Total for the West India Islands,		
in the first term	—	£3,353,337 10 10
Ditto, in the second term	—	3,767,841 12 11
		<hr/>
Increase, only	£0,404,504	2 1

The difference between the employment afforded to the manufacturers of England, by the Northern Colonies and by the West India Islands, is still greater than it may appear to be from the first view of the preceding account: for a much greater quantity of East India goods is exported to the last than to the first; and the English manufactures consumed by them generally derive their value from the richness of the materials, many of which are brought from foreign countries, but those we consume, chiefly derive their value from the work bestowed upon them. (*Vide note to page 5.*)

† *Vide note to page 10.*

* “A great advantage which the French have over the English in their sugar colonies, is their Agrarian law, whereby monopolists are prevented from engrossing too much land; so that the number of whites is greatly increased, the land much improved, more commodities raised, the planters obliged to a more frugal way of living, and all things rendered cheaper. By these means Martinico can muster 16,000 fighting men; but Jamaica, which is near three times as large, only 4000.”

TUCKER on trade.

now

now sit in the House of Commons, could obtain that frequently expensive honour.

It is allowed by those well acquainted with the islands, that they cannot supply Great Britain, and these colonies, with sugar and other articles, and that they can by no means consume the productions of these colonies; yet in * favour to them we are almost entirely prevented from sending

* It is recited in the 6th of Geo. II. ch. 13, now made perpetual, "that the sugar colonies could not carry on their trade on an equal footing with the foreign sugar colonies, without some advantage and relief given to them by Great Britain." That advantage given by Great Britain was to compel the continental colonies to take their productions at any price they please to ask. In short, to grant them a monopoly for sugar. This was taking from one indeed to give to another; but goes not to the root of the evil; as the next preceding note evidently shews. For if Great Britain should sacrifice her own interests and those of her continental colonies still more, if it be possible, to the interest of these islanders, they never will "carry on their trade on an equal footing with the foreign sugar colonies," until there is the same moderation in their estates, and the same frugality in their living. By a very singular disposition of affairs, the colonies of an absolute monarchy are settled on a republican principle; while those of a kingdom in many respects resembling a commonwealth, are cantoned out among a few lords, vested with despotic power over myriads of vassals, and supported in the pomp of bathaws by their slavery.

these

these productions to any other markets. Hence it follows, that we are frequently obliged to sell our commodities to them at so low a price as not to pay the first cost and freight; while we, being in a manner prohibited from getting the West India productions, for which we have occasion, any where else but from them, must pay extravagantly for them.

Nor is this management attended, as it is presumed, with any benefit to the mother country, but with a disadvantage either where the productions of the foreign plantations are consumed among us, or re-exported to Europe. By the compulsion on us to take from our islands, the price of their productions is raised on the people of Great Britain. The revenue would be increased by this restriction being taken off, as we should willingly pay a moderate duty upon importations from the French and Spaniards, without attempting to run them; while a very considerable duty would be paid

paid on the † sugars of our islands, which, instead of coming to us, would then go to Great Britain. Besides, whatever extraordinary price we pay for the productions of our own islands, must lessen our demand for British manufactures; since it is an || undeniable

† The restriction on the trade of the colonies to foreign plantations for melasses, is particularly grievous and impolitic, as the melasses brought from thence was distilled for the fisheries, the Indian and Guinea trades, the profit of which centered in Great Britain. It is said, our vessels now buy spirituous liquors on the coast of Guinea from the Dutch.

|| This cannot be disputed by any one who is acquainted with America. The increase of a man's wealth there shews itself in a greater consumption of British manufactures of all kinds.—This reasoning in favour of the continental colonies trade with foreign plantations, is confirmed by what Sir Josiah Child mentions of N. England.—He says, “England loses by the unlimited trade of this colony to other foreign plantations, but gains by her direct trade to Old England, from whence she exports manufactures to ten times the value of her imports.” (*See the note to page 5.*) What was it then that enabled New England to pay ten times the value of her imports to England, but the profits of her trade to foreign plantations? This appears to be a direct authority in support of the arguments hereafter used. It seems, therefore, that Great Britain of late, through too great eagerness to gather golden fruits, has shaken the tree before they were full grown. With a little patience they would ripen, and then of themselves drop into her lap.

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“ The

undeniable truth, that what we should save in that way would be chiefly spent in this. It may also be added, that our commerce with the foreign plantations carries to them

“ The inhabitants of our colonies, by carrying on a trade with their foreign neighbours, do not only occasion a greater quantity of the goods and merchandizes of Europe being sent from hence to them, and a greater quantity of the product of America to be sent from them hither, which would otherwise be carried from, and brought to Europe by foreigners, but an increase of the seamen and navigation in those parts, which is of great strength and security, as well as of great advantage to our plantations in general. And though some of our colonies are not only for preventing the importations of all goods of the same species they produce, but suffer particular planters to keep great runs of land in their possession uncultivated, with design to prevent new settlements, whereby they imagine the prices of their commodities may be affected; yet if it be considered, that the markets of Great Britain depend on the markets of all Europe in general, and that the European markets in general depend on the proportion between the annual consumption and the whole quantity of each species annually produced by all nations; it must follow, that whether we or foreigners are the producers, carriers, importers and exporters of American produce, yet their respective prices in each colony (the difference of freight, customs and importations considered) will always bear proportion to the general consumption of the whole quantity of each sort, produced in all colonies, and in all parts, allowing only for the usual contingencies that trade and commerce, agriculture and manufactures are liable to in all countries.”

POSTLETHWAYT'S Univ. Dict. of Trade and Commerce.

very

very considerable quantities of British manufactures for their consumption. *

If our importations from them should be re-exported to Europe, the profits would center in Great Britain, according to the usual course of our trade. The statute passed in the twenty-fifth year of Charles the second, indeed mentions this practice as injurious. It might be so, if regarded without its attendant circumstances ; but if they are taken into view, and it be considered, that if we do not carry these productions to Europe, foreigners will, no mischief seems likely to ensue from our becoming the carriers. §

The restriction also with regard to our iron is thought particularly severe. Whenever we can get a better price in Great Britain than elsewhere, it is unnecessary ; whenever we can get a better price in other

* See the preceding note.

† See the preceding note.

places,

places, it is † prejudicial. Cargoes composed of this metal, provisions, and lumber, have been found to answer very well at the Portuguese and some other markets; and as the last articles are frequently very low, and our foreign trade is reduced to so few commodities, the taking away any one of them must be hurtful to us. Indeed, to require us to send all our iron to Great

† If Great-Britain really takes off from Sweden iron to the value of £200,000, according to the calculation that has been made, yet she does not lose all that sum. Not to insist on the merely political advantage of having a commerce with that protestant kingdom, which by being beneficial to her, may more firmly attach her to our interest, it may be observed, that the trade of Great-Britain to Sweden, it is for iron in the gross, which is afterwards worked up, and large quantities of it re-exported; so that money may thereby be brought into the kingdom, and a great number of hands is employed. There is a vast difference between this trade, and that to France, from whence the importations into Great-Britain are merely for consumption, without affording any employment to her people, or any profit by re-exportation. Besides, if the colonies can get more by carrying their iron to foreign ports, than to Great-Britain, (and if they cannot, there is no occasion of a law to compel them to carry it to Great-Britain) they will be more able to make larger demands for British manufactures; so that Great-Britain will gain the profits of our iron, to make up her loss by what she takes from Sweden.

Britain,

Britain, is, in the opinion of some of our most judicious merchants, to require an impossibility : for as this article is so heavy, and such small quantities can be sent in one vessel, they assert, that we cannot find freight directly home for one half of it.

Besides the circumstances already mentioned to prove the injurious consequences of the late restrictions, there is another, which has great force in persuading me, that our trade ought, by all means to be more encouraged and extended at this time than was formerly necessary. Our settlements then comprehended only a narrow strip along the shore of the ocean ; they were less populous ; and their distance from the sea ports being small, they were supplied with every thing they wanted from thence, without any length of inland carriage. But now we have penetrated boundless forests, have passed over immense mountains, and are daily pushing further and further into the wilderness, the inhabitants,

bitants of these remote regions must of necessity hold very little intercourse with those which are near the sea, unless a very extensive commerce shall enable these to supply them with such quantities of † foreign commodities as they want, and at such prices as they can afford to pay. Every restriction on our trade seems to be a restriction on this intercourse, and must gradually cut off the connection of the interior parts with the maritime and the mother country.

But it is unnecessary to endeavour to prove, by reasoning on these things, that we shall suffer, for we already suffer. Trade is decaying, and all credit is expiring. || Money is become so extremely scarce,

† It is apprehended, that if the greatest part of the commodities demanded by the back country should not be British but West-Indian; yet it must be beneficial to Great-Britain to promote this trade by all means. For if the country nearer the sea grows rich by supplying them with the productions of the West-Indies, these will certainly consume greater quantities of British manufactures.

|| It is said that in Virginia, the sheriffs, instead of raising the annual levies, have been obliged to make returns into the treasury, of effects which they have taken in execution, but could not sell, as there were no bidders for ready money.

that reputable freeholders find it impossible to pay debts which are trifling in comparison to their estates. If creditors sue and take out executions, the lands and personal estate, as the sale must be for ready-money, are sold for a small part of what they were worth when the debts were contracted. The debtors are ruined. The creditors get but part of their debts, and that ruins them. Thus the consumers break the shop-keepers; they break the merchants; and the shock must be felt as far as London. Fortunate, indeed, is the man who can get satisfaction in money for any part of his debt in some counties; for in many instances, after lands and goods have been repeatedly advertised in the public gazettes, and exposed to sale, not a buyer appears.

By these means multitudes are already ruined, and the estates of others are melted away in the same manner. It must strike any one with great surprize and concern, to hear

hear of the number of debtors discharged every court by our insolvent act. Though our courts are held every quarter, yet at the last term for the county of Philadelphia alone, no less than thirty-five persons applied for the benefit of that act. If it be considered, that this law extends only to those who do not owe any single debt above 150l. that many are daily released by the lenity of their creditors, and that many more remove, without their knowledge, it will not be difficult to form a judgment of the condition to which the people are reduced.

If these effects are produced already, what can we expect when the same causes shall have operated longer? What can we expect, when the exhausted colonies shall feel the *Stamp Act* drawing off, as it were, the last drops of their blood? From whence is the silver to come, with which the taxes imposed by this act, and the duties imposed by other late acts, are to be paid? Or how

will our *merchants* and the *lower ranks of people*, on whom the force of these regulations will fall first, and with the greatest violence, bear this additional load ?

These last are to be considered in a very different light from those of the same classes in Great Britain. *There* the nature of their employments, and the plenty of money give them very little occasion to make contracts in writing; but *here* they are continually making them, and are obliged to do so. The *Stamp Act*, therefore, will be severely felt by *these*, in whose welfare the prosperity of a state is always so much interested; and*transfers of property, that ought, in new countries particularly, to be made as easy as possible, will be much discouraged. From the necessity they are under of making

In the present scarcity of money, the sellers of lands, negroes, &c. &c. always insist on having part of the purchase-money in hand.—The buyers, unless they happen to be rich men, find it impossible to comply with this term, unless they borrow money, which cannot now be done but in very small parcels from different persons. Each of these must have a bond; and each of those bonds must pay a stamp-duty of one shilling sterling, if the sum be above ten pounds and under twenty—and if above twenty pounds and under forty, one shilling and six-pence sterling—besides a heavy duty on the original contract.

contracts to be executed afterwards, the lower ranks of people here are frequently engaged in law suits; and as the law is already a very heavy tax on the subject in all parts of the British dominions, this act will render it destructive here; for the necessities, the follies and the passions of mankind, will not suffer them to cease from harrassing one another in that way.

Neither are the merchants here by any means able to bear taxes, as they do at home. A very great number of them there put such stocks into trade, as would be thought large fortunes among us; and our merchants would think themselves very happy to leave off business with such estates as the others begin with. I speak of the merchants in general; for we have on the continent individuals who are rich, but their number is too inconsiderable to deserve any notice on this occasion. Besides, the interest of money being lower at home than it is here, those who trade on borrowed stocks, can do it to much greater advantage there than we can. Indeed, among us it is almost impossible

possible to get money to trade upon at any rate. How unequal, under the present disadvantages, a merchant's commerce will be to the payment of all the taxes imposed by the *Stamp Act* on his policies, fees with clerks, charter-parties, protests, his other notarial acts, his letters, and even his advertisements, experience, I am afraid will unhappily prove.

Thus, I apprehend, that this act will be extremely heavy on those who are least able to bear it; and if our merchants and people of little substance languish under it, all others must be affected. Our mode of taxation hath always been by making as exact an estimate as could be formed of each man's estate; by which means, our taxes have been proportioned to the abilities of those who were to pay them. Few persons are employed in the collection of them; their allowance is very moderate; and therefore the expence is small. No excessive penalties, no tribes of informers, no dreadful and detestable courts are necessary. This I imagine is the mode of taxation, which

in young colonies will be found to be least oppressive and destructive, and certainly the most equal; but by the *Stamp Act*, the wealthy who have money to let out at interest, or to make purchases, and undoubtedly ought to pay the most towards the public charges, will escape these taxes, while the whole weight of them will fall on the necessitous and industrious, who most of all require relief and encouragement.

But it may be said, "That the merchants will not be affected by these taxes, because they will raise the prices of their goods in proportion, and that at length *all taxes must arise from lands.*"

This rule seems more applicable to very populous and rich countries, where the manufacturers and landholders through necessity or the force of fashions, have pressing demands upon the merchants, than to such a country as this, where a great majority of the people live on their lands in a very

† If a rich man buys land, it is generally from the distressed, and therefore the sellers situation will oblige him to pay for the deed, when the other insists on it; and when a man borrows money, every body knows who pays for the bonds and mortgages,

plain

plain way. For by practising a strict frugality and industry, ~~we~~ may render ourselves more independent of the merchants, than the circumstances of more populous and wealthy states will permit the other classes of their people to be. The high prices therefore which our merchants impose upon their goods, will discourage the sale of them, and consequently they must "be affected by the taxes," which oblige them to raise the prices in this manner.

However, granting that all taxes must arise from lands, it follows, that where the profits of the lands are small, they can bear but small taxes. The more labour is bestowed on them, the greater the profits *will* be, and the taxes *may* be. In old populous countries there is an opportunity of bestowing this labour, and the manner of doing it is well understood. Thus in England, the profits of land are so great, as to support a very large number of nobility and gentry in splendor, and to afford means of raising taxes to an amazing amount. Nor are the workers of the land unrewarded

unrewarded ; for the farmers have such long leases, and other encouragements, that they thrive and live comfortably, and many of them are very wealthy.

How different is the case in America ? The inhabitants being scattered thin through the country, and labourers being very scarce, they think themselves fortunate if they can clear their land, fence it, and any how put their grain into the ground in season. Manuring * or improving soils is not known, except in some small closes near cities ; but every one must be content with what his land will yield of itself. With this it must be considered, that at least four fifths of the people in America live upon farms, either of their own or rented, and spend their small profits in maintaining their families ; and it frequently happens from the length and severity our winters, that the whole produce of a man's farm is not sufficient to maintain

+ “ Further, it may be observed, that our lands are not sufficiently cultivated, even where they are capable of great improvement. Hence large tracts serve only to maintain a small number of people. If we ask, why our lands (meaning in Scotland) are so ill cultivated,

become detrimental to both”

POSTLETHWAITE'S Dig. of Trade and Com.

maintain his family and stock*.

We are informed, that an opinion has been industriously propagated in Great Britain, that the colonies are † wallowing in

ted; besides the obvious causes arising from the poverty and unskilfulness of many of our farmers, the shortness of their leases, and other things which will occur upon the least reflection, it is not a little owing to a want of inclination for agriculture, &c."

Differtation on the numbers of mankind.

* Small as the value of our land is, it is still daily decreasing, by the number of markets for their produce being lessened; which must in time give the people an inclination to try what they can make by manufactures.

The riches of a people are always in proportion to the number of hands employed in works of skill and labour. Where these are few there can be but little wealth; and where there is little wealth, but very small taxes can be born.

† "It is certain, that from the very time Sir Walter Raleigh, the father of our English colonies, and his associates, first projected these establishments, there have been persons who have found an interest, in misrepresenting, or lessening the value of them---The attempts were called chimerical and dangerous. Afterwards many malignant suggestions were made about sacrificing so many Englishmen to the obstinate desire of settling colonies in countries which then produce very little advantage. But as these difficulties were gradually surmounted, those complaints vanished. No sooner were these lamentations over, but others arose in their stead; when it could be no longer said, that the colonies were useless, it was alledged that they were not useful enough to their mother country; that, while we were loaded with taxes, they were absolutely free; that the planters lived like Princes, while the inhabitants of England laboured hard for a tolerable subsistence. This produced customs and impositions, which, if grievous to the plantations, must turn to our disadvantage, as well as theirs, and consequently become detrimental to both."

POSTLETHWAYT'S Dict. of Trade and Com.

wealth and luxury, while she is labouring under an enormous load of debt. Never was there a greater mistake. This opinion has arisen from slight observations made in our cities during the late war, when large sums of money were spent here in support of fleets and armies. Our productions were then in great demand, and trade flourished. Having a number of strangers among us, the people, naturally not ungenerous or inhospitable, indulged themselves in many uncommon expences. But the cause of this gaiety has ceased, and all the effect remaining is, that we are to be treated as a rich people, when we are really poor. Tully mentions a man who lost an honourable office, by the homely entertainment he gave the people of Rome, when he could have afforded a better; but we have lost vastly more by the imprudent excess of kindness, with which we have treated the people of Great Britain who have come among us, at an expence that did not suit our fortunes.

In pursuance of this design to bring down the pride of these Princely planters, such heavy impositions were laid in Great-Britain on tobacco, that the inhabitants of Maryland and Virginia were discouraged from raising it. Then the mother country felt her error, and these Princes were found to be very poor people. The same unhappy spirit is now producing the same mistake. There wants but a very little more weight upon Maryland and Virginia, to prevent their raising tobacco, and to make them and all their sister colonies sink under their multiplied burthens.

To all the disadvantages that have been mentioned, it must be added, that our markets are much more precarious than those at home. It is computed, that one half of the people there live in cities, and consequently there must be a perpetual domestic demand for the productions of the earth; and foreign markets are not far distant for the overplus. Here the quantity sold for consumption among us is small, and most of the foreign markets are very remote.

THESE reasons induce me to think, that the colonies, unless some fortunate events, not to be expected, should happen, cannot bear the restrictions and taxations laid upon them by their mother country, without suffering very severely. What then can we do? Which way shall we turn ourselves? How may we mitigate the miseries of our country? *Great-Britain* gives us an example to guide us! SHE TEACHES US TO MAKE A DISTINCTION BETWEEN HER INTERESTS AND OUR OWN. Teaches! She requires—

F com-

commands—inists upon it—threatens—
compels—and even distresses us into it.

WE have our choice of these two things
—to continue our present limited and dis-
advantageous commerce—or to promote
manufactures among ourselves, with a habit
of œconomy, and thereby remove the neces-
sity we are now under of being supplied by
Great-Britain.

IT is not difficult to determine which of
these things is most eligible. Could the last
of them be only so far executed, as to bring
our demand for *British* manufactures below
the profits of our foreign trade, and the
amount of our commodities immediately re-
mitted home, these colonies might revive
and flourish. States and families are enrich-
ed by the same means; that is, by being so
industrious and frugal, as to spend less than
what they raise can pay for.

WE have examples in this province,
which if imitated by others, must unavoidably
produce the most happy effects for us : I mean
the

the examples of the industrious, frugal, honest *Germans*. Their lands are as well cultivated as they can be in this new country, and they have the good sense to require very little provisions and cloaths more than they can get from their own farms, and make with their own hands. If we only consider for a moment, the consequences of such a conduct, should it be general, we must be convinced it must produce commerce, since all superfluities would be exported; and the Owners having few demands in return, *that commerce* would of course produce wealth.

INDEED we shall be compelled, I apprehend, generally to imitate these examples. The late regulations, and our constant remittances to *Great-Britain*, have extremely lessened the quantity of money among us, and yet these remittances are not sufficient to pay for those things we want from home. Necessity will teach us two ways to relieve ourselves. The one is, to keep the *British* manufactures we purchase longer in use or wear than we have been accustomed to do. The other is, to supply their place by manufactures of our own. I dont suppose our

difficulties will *immediately* produce expert
 artists among us; but as the inhabitants here,
 generally reside on their lands, and live in a
 plain rustic way, they will be able to supply
 themselves with many articles. Some au-
 thor, and I think *Keyssler*, says, that in *Swit-*
zerland, every family has all the trades in it
 that are necessary for its use. Their work
 is not, it may be presumed, at all in the taste
 of *London* or *Paris*, but it serves their pur-
 pose; and their coarse cloaths and simple
 furniture enable them to live in plenty, and
 to defend their liberty. Something of this
 kind will be, nay, already is, practised by
 us. It is surprising to see the linen and cloth
 that have been lately made among us. Ma-
 ny gentlemen in this city, dress now in suits
 produced, manufactured, and made up in
 this province. The cloth is not equal in
 fineness to the best broad-cloth, but it is
 warm, strong, and not very homely; and
 when the *British* workmen understand that
 they may meet with better encouragement
 here than they do at home, I believe in a
 few years we shall have very different kinds
 of cloth among us from these we now make.
 Instances are not wanting to justify the most
 sanguine

sanguine expectations on this head. *Spain* used formerly to be entirely supplied with cloths from *England*; but in the reigns only of their two last kings, *Philip* the Vth, and *Ferdinand* the VIth, their manufactures have been improved to such a degree, even by that proud and indolent people, that this commerce has entirely ceased in most parts of that kingdom. The same thing has happened in *France*, notwithstanding the destructive wars in which she has been continually involved. *Switzerland* some time ago spent large sums of money in foreign commodities; but now they make excellent cloths, and good silks, though the scheme at first labored under very great difficulties. That country used also to be supplied by *Savoy* with wine; but the Duke laying a duty upon it, the *Switzers* remonstrated, but in vain. At last some of the principal men promoted the cultivation of vines, though their predecessors had never planted any. The result exceeded their hopes. * “ The demand for the *Savoyard* wine daily decreased, and instead of the precarious advantage

* *Kreiser*,

arising from this *impolitic* duty, the certain revenue was *irretrievably* lost, and the industrious subject deprived of the benefit of his labour."

"BEFORE the settlement of these colonies," says *Postlethwayt*, "our manufactures were few, and those but indifferent. In those days we had not only our naval stores, but our ships from our neighbours. *Germany* furnished us with all things made of metal, even to nails. Wine, paper, linens, and a thousand other things, came from *France*. *Portugal* supplied us with sugar; all the products of *America* were poured into us from *Spain*; and the *Venetians* and *Genoese* retailed to us the commodities of the *East-Indies*, at their own price."

THE astonishing alterations in all these particulars, are too well known to need enumeration.

THESE instances, and many others that might be mentioned, may convince us, that nothing is too difficult for men to effect, whose hearts are filled with a generous love
of

of their country ; and they may convince the world of the dangers that attend provoking innovations in commerce. A branch of trade once lost, is lost for ever. In short, so strong a spirit is raised in these colonies by late measures, and such successful efforts are already made among us, that it cannot be doubted, that before the end of this century, the modern regulations will teach *America*, that she has resources within herself, of which she never otherwise would have thought. Individuals, perhaps, may find their benefit in opposing her use of these resources ; but I hope very, very few, will wish to receive benefits by such means. The man who would promote his own interests by injuring his country, is unworthy of the blessings of society.

It has hitherto been thought, by the people of *Great Britain*, and I hope it will still be thought, that sufficient advantages are derived by her from the colonies, without laying taxes upon them. To represent them as an "expensive appendage of the *British* empire, that can no other way repay the trouble and treasure they cost her," is certainly

one

one of the greatest errors; and to spend much time in refuting this notion, would be unnecessary. Every advantage accruing to the colonies by their connection with the mother country, is *amply—dearly—*paid for, by the benefits derived to her from them, and by the restrictions of their commerce. These benefits have been allowed by the best writers to be immense, and * consist in the various employment, and the support they afford her people. If the colonies enable *her* to pay taxes, is it not as useful to her, as if *they* paid them? Or, indeed, may not the colonies with the strictest propriety be said to pay a great part of those taxes, when they consume the *British* manufactures loaded with the advanced prices occasioned by such taxes? Or, further, as the colonies are compelled to take those manufactures thus † loaded, when they *might*

* Chiefly; even the supplying her with naval stores, &c. being inconsiderable, when compared with the other advantages.

† “If it be asked, whether foreigners, for what goods they take of us, do not pay on *that consumption* a great portion of our taxes? It is admitted they do.”

POSTLE-

might furnish themselves so much cheaper from other countries, may not the difference between these prices be called an *enormous tax* paid by them to *Great Britain*? May they not also be said to pay an *enormous tax* to her, by being compelled to carry their most valuable productions *to her alone*, and to receive what she pleases to give for them, when they might sell them at other markets to much greater advantage? Lastly, may they not be said to pay a heavy tax to her, in being prohibited from carrying on such manufactures

POSTLETHWAYT'S *Great Britain's* true system.

By the consumption of *British* manufactures in *America*, we pay a heavier tax to *Great Britain*, than if they were consumed at home. For in the bringing them here, a vast number of merchants, factors, brokers and seamen are employed, every one of which must have such a profit, as will enable him to support himself and his family, if he has any, in a country where every thing is dear by reason of the high taxes.

So far was the parliament from thinking in the last war, that any further taxes should be laid on the colonies, so convinced indeed were they, that we had exceeded our abilities in the supplies we gave to the crown, that several sums of money were granted to us, as indemnifications for the too heavy expences in which we had involved ourselves.

The sums thus given, paid part of our debts, but we are still labouring under the remainder.

as they could have employed themselves in with advantage, and thus being obliged to resort to her for those things with which they might supply themselves? If these things are true, and can they be denied! may not the mother country more justly be called *expensive* to her colonies, than they can be called *expensive* to her?

WHAT would *France* give for such *expensive* dominions? Would she refuse the empire of *North-America*, unless the inhabitants would submit to any taxes she should please to impose? Or would she not rather afford them her utmost protection, if ever they should be wretched enough to require it, for one half of the emoluments *Great Britain* receives from them? In short, the amazing increase of the wealth and strength of this kingdom, since the reign of queen *Elizabeth*, in whose time the colonies began to be settled, appears to be a sufficient proof of their importance: And therefore I think it may justly be said, that THE FOUNDATIONS OF THE POWER AND GLORY OF GREAT BRITAIN ARE LAID IN AMERICA.

WHEN

WHEN the advantages derived by the mother country from her colonies are so ** important and evident*, it is amazing, that any persons should venture to assert, "that she poured out her wealth and blood in the late war, *only for their defence and benefit*; and that she cannot be recompenced for this expence and loss, *but by taxing them*."

If any man, who does not chuse to spend much time in considering this subject, would only read the speeches from the throne during that period, with the addresses in answer to them, he will soon be convinced *for whose benefit Great Britain* thought she was exerting herself. For my part, I should not now be surprized, if those who maintain the above-mentioned assertions, should contend, that *Great Britain* ought to tax *Portugal*. For was not that kingdom "defended by the troops and treasure of *Great Britain*? And how can she be "otherwise recompenced for this expence and loss?" If the protection of

• Vide notes to page 4.

Portugal, though no taxes are received from thence, was beneficial to *Great Britain*, infinitely more so was the protection of the colonies.

So far I must beg leave to dissent from these gentlemen, that if the colonies, by an increase of industry and frugality, should become able to bear this taxation, it will, in my apprehension, notwithstanding be injurious to *Great Britain*. If the sum be trifling, it cannot be worth the discontent and unhappiness the taking it will produce among so many faithful subjects of his Majesty. If it be considerable, it must also be hurtful in another respect.

It must be granted, that it is not merely the bringing money into a nation that makes it wealthy, but the bringing money into it by the general industry of its inhabitants. A country may perpetually receive vast sums, and yet be perpetually poor. It must also be granted, that almost all the money acquired by the colonies in their other branches of trade, is spent by them in *Great Britain*,
and

and finds employment for her people. What-
ever then lessens the sum so spent, must less-
en that employment. This I think will be
one consequence of the STAMP ACT.
For our demand will be as much less for
British manufactures, as the amount of the
sums raised by the taxes. So much the fewer
British merchants, artists, seamen and ships
will be employed by us, and so much the
more distressed at first, and afterwards so
much the more frugal, * ingenious, labori-
ous and independent will the colonists be-
come.

It is evident from the concurrent testi-
mony of her own most noted authors on this
subject, that *Great-Britain* is sure of having
our money at † last; and it appears no dif-
ficult matter to determine, whether it is bet-
ter to take it in taxes or trade.—Suppose the

* *Great Britain* will not only lose in such case, the
annual amount of the taxes, but the people of *America*
establishing manufactures thro' discontent, will in time
entirely withdraw their intercourse with her.—And there-
fore her loss of the whole *American* trade, may be justly
attributed to this inauspicious beginning.

† See notes to page 4.

STAMP

STAMP ACT, enforced by uncommon penalties and unheard of jurisdictions, should pick up every piece of gold and silver that shall wander into the plantations, what would *Great-Britain* gain by this measure? Or rather what would she not lose, by attempting to advance her revenue by means so distressing to commerce?

BUT if the late restrictions shall not prove profitable, perhaps they may by some be called prudent for another reason. We are informed, that many persons at home affect to speak of the *colonists*, as of a people designing and endeavouring to render themselves independent, and therefore it may be said to be proper as much as possible to depress them. This method for securing obedience, has been tried by many powerful nations, and seems to be the constant policy of commonwealths: But the attempt in almost every instance from *Athens* down to *Genoa*, has been unsuccessful. Many states and kingdoms have lost their dominions by severity and unjust jealousy. I remember none that have been lost by kindness and a generous confidence. Evils are frequently precipitated

pitated by imprudent attempts to prevent them. In short, we never can be made an independent people, except it be by * *Great-Britain*

* “ If we are afraid that one day or other the colonies will revolt, and set up for themselves, as some seem to apprehend, let us not *drive* them to a *necessity* to *feel* themselves independent of us ; as they *will* do, the moment they perceive that *they can be supplied with all things from within themselves*, and do not need our assistance. If we would keep them still dependent upon their mother country, and in some respects *subservient* to their *views* and welfare ; let us make it their INTEREST always to be so.”

TUCKER on trade.

“ Our colonies, while they have *English* blood in their veins, and have relations in *England*, and WHILE THEY CAN GET BY TRADING WITH US, the *stranger* and *greater* they grow, the *more* this *crown* and *kingdom* will get by them ; and nothing but such an arbitrary power as shall make them desperate can bring them to rebel.”

DAVENANT on the plantation trade.

“ The Northern colonies are not upon the same footing as those of the South ; and having a worse soil to improve, they must find the recompence some other way, which only can be in property and dominion : Upon which score, any innovations in the form of government there, should be cautiously examined, for fear of entering upon measures, by which the industry of the inhabitants, be quite discouraged. 'Tis ALWAYS UNFORTUNATE for a people, either by CONSENT or upon COMPULSION, to depart from their PRIMITIVE INSTITUTIONS,

and

Britain herself; and the only way for her to do it, is to make us frugal, ingenious, united and discontented.

and those FUNDAMENTALS, by which they were FIRST UNITED TOGETHER.

Idem.

* The most effectual way of uniting the colonies, is to make it their common interest to oppose the designs and attempts of *Great Britain*.

“ All wise states will well consider how to preserve the advantages arising from colonies, and avoid the evils. And I conceive that there can be but two ways in nature to hinder them from throwing off their dependence; one, to keep it out of their power, and the other, out of their will. The first must be by force; and the latter, by using them well, and keeping them employed in such productions, and making such manufactures, as will support themselves and families comfortably, and procure them wealth too, and at least not prejudice their mother country.

Force can never be used effectually to answer the end, without destroying the colonies themselves. Liberty and encouragement are necessary to carry people thither, and to keep them together when they are there: and violence will hinder both. Any body of troops considerable enough to awe them, and keep them in subjection under the direction too of a needy governor, often sent thither to make his fortune, and at such a distance from any application for redress, will soon put an end to all planting, and leave the country to the soldiers alone, and if it did not, would eat up all the profit of the colony. For this

BUT if this event shall ever happen, which Providence I hope will never permit, it must be when the present generation and the present set of sentiments are extinct.

this reason, arbitrary countries have not been equally successful in planting colonies with free ones; and what they have done in that kind, has either been by force at a vast expence, or by *departing from the nature of their government, and giving such privileges to planters as were denied to their other subjects.* And I dare say, that a few prudent laws, and a little prudent conduct, would soon give us far the greatest share of the riches of all *America*, perhaps drive many of other nations out of it, or into our colonies for shelter.

There are *so many exigencies in all states, so many foreign wars, and domestic disturbances,* that these colonies CAN NEVER WANT OPPORTUNITIES, if they watch for them, *to do what they shall find their interest to do;* and therefore we ought to take all the precautions in our power, that it shall never be *their interest* to act against that of their native country; an evil which can no otherwise be averted, than by keeping them *fully employed in such trades as will encrease their own, as well as our wealth;* for it is much to be feared, if we do not find employment for *them*, they may find it for *us.* The interest of the mother country, is always to keep them dependent, and so employed; and it requires all her address to do it; and it is certainly more *easily and effectually* done by *gentle and insensible* methods, than by power alone."

CATO's letters.

H

Late

Late measures have indeed excited an universal and unexampled grief and indignation throughout the colonies. What man, who wishes the welfare of *America*, can view without pity, without passion, her restricted and almost stagnated trade, with its numerous train of evils——taxes torn from her without her consent. — Her legislative assemblies, the principal pillars of her liberty, crushed into insignificance. — A formidable force established in the midst of peace, to bleed her into obedience — The sacred right of trial by jury, violated by the erection of arbitrary and unconstitutional jurisdictions ——and general poverty, discontent and despondence stretching themselves over his unoffending country?

THE reflections of the colonists on these melancholy subjects, are not a little embittered by a firm persuasion, that they never would have been treated as they are, if *Canada* still continued in the hands of the *French*. Thus, their hearts glowing with every sentiment of duty and affection towards their mother country, and expecting, not unreasonably perhaps, some marks of tenderness

tenderness in return, are pierced by a fatal discovery, that the vigorous assistance which they faithfully afforded her in extending her dominions, has not only proved the glorious but destructive cause of the calamities they now deplore and resent.

YET still their resentment is but the resentment of dutiful children, who have received unmerited blows from a beloved parent. Their obedience to *Great-Britain* is secured by the best and strongest ties, *those of affection*; which alone *can*, and I hope *will* form an everlasting union between her and her colonies. May no successes or suspicions ever tempt *her*, to deviate from the natural generosity of her spirit—And may no dreadful revolution of sentiments, ever teach *them*, to fear her victories, or to repine at her glories.

I am, &c.

POSTSCRIPT.

I Have omitted mentioning one thing that seems to be connected with the foregoing subject.

WITH a vast expence of blood and wealth, we fought our way in the late war up to the doors of the *Spanish* treasuries, and by the possession of *Florida*, might obtain some recompence for that expence. *Pensacola*, and the other ports in that country, are convenient places, where the *Spaniards* might meet us, and exchange their silver for the manufactures of *Great-Britain* and the provisions of these colonies. By this means, a commerce inconceivably beneficial to the *British* subjects might be carried on. This commerce the *Spaniards* wish and have endeavoured to carry on. Many hundred thousand dollars have been brought by them to *Pensacola* to lay out there; but the men of war

war on that station have compelled them to take back their cargoes, *the receipt of which*, it may from thence be presumed, *would be destructive to the interests of Great-Britain.*— Thus we receive less advantage from *Florida*, now it belongs to us, than we did when it was possessed by our enemies; for then, by permission from the *Spanish* governors to trade there, we derived considerable emoluments from our intercourse with them.

UPON what reasons this conduct is founded, is not easy to determine. Sure no one considers *Florida* in the same light with *these colonies*, and thinks that no vessels should be permitted to trade there, but *British* shipping. This would be to apply the acts of navigation to purposes directly opposite to the spirit of them. They were intended to preserve an intercourse between the *mother country* and her *colonies*, and thus to cultivate a *mutual affection*; to promote the interests of *both*, by an exchange of *their* most valuable productions for *her* manufactures; thereby to increase the shipping of *both*; and thus render them capable of affording aid to each other. Which of these purposes is

is answered by prohibiting a commerce, that can be no other way carried on? That is, by forbidding the *Spaniards* to bring their wealth for us to *Florida*, which is an unhealthy sand-bank, held by a garrison, at a great expence of money, and a greater of lives, that cannot for ages, if ever it will, yield a single advantage to *Great-Britain*, but that she refuses to enjoy.

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THE LATE
OCCURRENCES
IN
NORTH AMERICA,
AND
POLICY
OF
GREAT BRITAIN,
CONSIDERED.

Tantane vos generis tenuit Fiducia Vestri?
Jam Cœlum Terramq: meo sine numine, Venti,
Miscere, et tantas auditis tollere Moles?
Quos Ego, *Sed Motos præstat componere Fluctus.*

VIRG.

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M.DCC.LXVI.

[PRICE ONE SHILLING.]

THE STATE
OCCURRENCES
 IN
 NORTH AMERICA
 AND
 OCCURRENCES

THE STATE OF NEW YORK
 was originally established by King
 George the Second in the year
 1732, and was at first a royal colony,
 which at different times attracted this king-
 dom's notice, and was granted a charter of
 incorporation in the year 1784, under
 the name of the State of New York.
 The first constitution of the State was
 framed in the year 1777, and was
 approved by the people in the year
 1777. This constitution was revised in
 the year 1794, and was again revised
 in the year 1821. The present
 constitution of the State was adopted
 in the year 1846, and was revised
 in the year 1892. The present
 constitution of the State is the
 result of the wisdom and
 patriotism of the people of the
 State, and is the best
 constitution that has ever
 been adopted by any
 people.

T H E

OCCURRENCES, &c.

THE British colonies in North America were originally established by Englishmen, who fled thither from the enthusiasm, tyranny, usurpation and bigotry, which at different times distracted this kingdom; as Englishmen, they had a right to the liberties of this nation, and were under the bond of allegiance to it, wheresoever they went. The charters granted to them by several of our kings, reserve the one, and confirm the other.

These charters appear to some people illegal, and beyond the power of the crown to grant; but, to judge rightly of them, we must carry our thoughts back to former times, when the crown had, or pretended to have, all power of government, even of

B

this

this kingdom, vested in itself; and had an undoubted sovereignty over, and right of disposition, of all conquests or acquisitions whatsoever; and besides, the nature of America was such, that no encouragement could be too great to allure people to those countries and climates, which were then so inhospitable; but, whether these charters are legal or not, ought by no means be questioned *now*; for upon the faith of them many people embarked their lives and fortunes, and, taking up their residence in the wilds of America, established colonies, and extended thereby the trade of Great Britain to its present greatness.

The colonies are secured by these charters from the despotism of the crown, of whom they are perhaps as independant, as the inhabitants of Great Britain can be. But from this claim of independance of the crown, which the colonists insist on, results the necessity of a dependance on some other power;—sound policy, the nature of government and modern colonization require it.—This power must be the parliament of Great Britain, which hath, and ought to have, the full and absolute sovereignty over all the British dominions.

If this sovereignty seems lately to have been called in question, it ought by no means to be imputed to the spirit of disloy-
alty

alty or independance, but to those errors which the best-intentioned men sometimes fall into; for evidently seeing the futility of those reasons, which are generally thrown out to prove the right of the sovereignty of parliament, they have been unhappily led to doubt the right itself.

They protest against the principles of the writers on the laws of nature and nations, as destructive of all liberty; the writers on the civil law they consider as the tools of power; and the writers and expositors of the common law of this land had not, they say, the colonies of Great Britain in contemplation, when they delivered those *dicta*, which are disingenuously made use of against them.

They acknowledge, that the people of Great Britain may be either actually or virtually represented in parliament, but deny that the colonies can in any manner be considered in that light: the putting them on the same footing with Birmingham, Manchester, and Leeds, rich and flourishing towns, when an argument is to be raised against their liberties, and denying them in the same breath, the right of Old Sarum, Aldborough, and fifty other impoverished boroughs, is most ridiculous and unfair. The comparing them to copyholders, formerly in the vilest bondage, and therefore particularly excluded the least share in go-

vernment, they consider as an insult; the treating them as women, as infants, and the dregs of the city of London, is a plain declaration of your opinion, that they are without property and integrity, will or capacity, to reconcile them to the want of representation. You tell them, not one third of the kingdom is represented; but they deny it, and insist with Mr. Blakstone, in his late masterly performance, "that such " *only* are entirely excluded from the right " of voting, as can have no will of their " own, and that there is hardly a " free agent to be found, but what is " entitled to a vote in some place or other " in this kingdom." Have we, say the Americans, no wills of our own? Are we not free agents? but could it be proved, that not one third part of the kingdom have a right of voting, yet it would not avail, unless you shewed at the same time, that the interests of all the kingdom was not the same; that the representatives of the third part of the kingdom had no knowledge of, and therefore neglected or injured the interests of the other two; you must shew likewise, that the interests of minors and women, copyholders and the lowest handicraft man in the kingdom, are not interwoven with the interests of every family and man in the kingdom; you must shew too, that minors and women

have

have no relations, and that their estates give them no influence; that the same man who was a copyholder, might not have freehold lands; and that a tax upon trade is not felt by any but the merchant and manufacturer.

The comparing them to Jersey and Guernsey, the miserable remains of your Norman dominion, and mere appendages of the crown, cannot subject them to the same laws; and that even Ireland itself, which is looked upon as a conquered country, ought not to be mentioned as a rule for your conduct towards the colonies, which were originally established by Englishmen, with assurances of the fullest enjoyment of liberty. But that, with regard to Ireland itself, tho' the sovereignty of the parliament of Great Britain over it is plainly asserted, yet you are very cautious in the exercise of it, particularly with respect to internal taxation.

These reasons, which are generally urged as a sufficient ground for establishing the right of the supremacy of the parliament of Great Britain over the colonies, not being quite satisfactory to the Americans, they have been led to question the right itself, and considering the grounds thereof, and the principles of the British constitution, they have taught themselves to think,

That whatever affects all, should be debated by all, so that knowledge and mutual interest

interest will prevent mistakes and partiality; that it is not to be imagined every representative of the people of Great-Britain has a knowledge of America, for tho' they may have taken much pains in crossing the Alps, and had much pleasure in conversing with the Cicero of Rome, yet it is possible they may be entirely unacquainted with the condition of New England, and the nature of lumber. That if a tax is laid on any branch of business, or upon a particular part of Great Britain, a knowledge can be soon had of the propriety and expediency of it: that the interests and condition of America is but little known: that no imposition can be laid on one part of the kingdom, without affecting the rest: that the taxing America falls solely upon that country, without affecting Great Britain, which assumes that power for its own peculiar ease and emolument, which is not a very delicate light to consider this country in. That countries and places, which have particular interests to support, ought to be represented in parliament: that it was on this principle the two Universities had the power given them of electing members; and that if a body of people are to be taxed by laws, which they have actually no share in making, the same mischiefs will ensue which are marked in the preamble to 24 and 35 H. viii. c. 13. which gave a right to the city of Chester of chusing representatives,

presentatives, " That the inhabitants there-
 " of have been oftentimes touched and
 " grieved with acts and statutes made with-
 " in the said court of parliament, as well
 " derogatory unto the most antient jurif-
 " diction, liberties, and privileges thereof,
 " as prejudicial unto the *common weal, qui-*
 " *etness, and peace*, of his Majesty's sub-
 " jects."

If then the sovereignty of the parliament of Great Britain over the colonies is founded on policy of government, and not on the principles which demand the submission of the inhabitants of Great Britain to the laws, namely, their consent to them, as either actually or virtually represented in the making of them, it behoves those who have this right to be particularly attentive in the exercise of it. And for that purpose, it is their essential duty not to despise the colonies, but to attain the best knowledge of them in their power: not to consider them as a set of vagabonds and transports, but an industrious, honest, and free people.

And in a word, not to adopt any system of partiality or prejudice, of suspicion or contempt, the marks of a wicked and weak ministry, but in all instances to treat them with tenderness and liberality as fellow subjects, and be convinced and act accordingly, that the interests of Great Britain, and its American colonies, are inseperable, and that the

the advantages of the one will not be eventually promoted, if the interests of the other are sacrificed to low and temporary expedients, and on the spur of particular occasions.

Should this ever be the case, we ought not to be surprised they should loudly complain and boldly protest against being made the property of an unpopular minister, who, unable to raise the necessary supplies in Great Britain, should seize on the friendless and unsupported Americans, and proposing plans of œconomy to this country, and pretending an extraordinary sagacity into future events, should form a system destructive of public confidence, and the commercial interests of both countries.

But it is urged, that however this right of parliament is founded, the Americans openly declare against it; and insolently claiming an independency, they are guilty of treason, and ought to be treated as rebels.

But nothing can be more unadvisable than the making use of opprobrious expressions, and the utmost exertion of power against supposed action, the nature and complexion of which we have no authoritative judgment of: the late occurrences in North America are of that kind, we neither can, nor ought to give a particular name to them, until we have information of their motives:

for

for should we rashly and falsely brand the conduct of any part of his Majesty's subjects with odious appellations, it will appear to every one as proceeding from the malice and indignation of party : but should we act so very injudiciously, as not only to call, but treat our American brethren as seditious, revolting, and rebellious, at a time when nothing can be farther from their thoughts, we must expect our want of charity in speech and violence of conduct will be resented by that spirit, which virtue and loyalty, once questioned, cannot help shewing. And how much would they have to answer for, whose blindness and obstinacy brought on an actual defection of as beneficial and as loyal a part of the dominions of this kingdom as his Majesty can glory in ? But should the colonies be really averse to this government, and should we have full proof of their inclination to fall off from that duty and affection they have hitherto shewed, severity and rigour would be exerted even then too soon, if we heard not their grievances, and cordially endeavoured to give a reasonable satisfaction to their just complaints ; for tho' we live in society, we must attend to the feelings of nature ; and as we live in a land of liberty, we must make some allowances even for the groundless resentments of freemen.—Our news papers and coffee-house politicians have been lately full of invectives

C

against

against the disposition and conduct of the Americans, and using foul mouthed reproach, and instigating the most violent methods, seem to be endeavouring to drive matters to the worst and last extremity, a civil war : and yet the same news papers and coffee-house politicians, not long since, made use of every plausible turn, and every palliative, to excuse, nay, to justify the chicanery of the French, in not paying the Canada bills ; and the want of honour and humanity of the Spaniards, in refusing to discharge the ransom of Manilla. These two nations were lately declared enemies to Great Britain, and will ever be the opposers of her interests ; and yet we treated both with tenderness, politeness, and condescension, because we were by all means to avoid a war, though nothing can be worse policy than to preserve the public repose by yielding any point of interest or honour. What can we think of such men and such politics ? they pass over unnoticed the open violations of solemn treaties, and blacken with scurrility and ignominy actions and men, whose motives and temper they are grossly ignorant of. A war is to be carefully avoided, in their opinion, with aliens, and the eternal enemies and rivals of this kingdom, but to be immediately entered into, and pursued with rigour and vengeance against its descendants and subjects. A civil war is per-

haps

haps in their notions less injurious to the happiness and interests of a people than a national one ; but I hope Great Britain will never be governed by such men, and such politics ; the present times, I am sure, do not require such councils.

The critical situation we are in demands deliberation and tenderness, and not rashness and violence ; we ought to act dispassionately for the mutual interests of both countries, and not in a spirit of party to the public confusion. We ought to consider the object for which our colonies were established, and how far it has been pursued and encouraged, or neglected and ruined ; we ought to be fully acquainted with the temper and condition of those who compose them, and of what benefit they have been, and what disposition they have had hitherto to this kingdom ; but we ought above all things to weigh in our minds, over and over again, the probable and possible consequences of treating those as enemies who have it in their power to be our most beneficial friends : we must consider, whether the terror of arms ever convinced the judgment, and conciliated the affections, and whether the Americans can, or will, ever be cordially united to you, if moderation, the best means of governing, is called pusillanimity, and looked upon as below the dignity of authority.

rity. Should compulsory means be determined on as absolutely necessary to quiet the Americans, the die is cast, *aut Cæsar aut nullus*. Every man of the least experience in Great Britain knows the consequence; every man in America trembles at it; it will be the ruin of both countries. It is probable indeed, considering the weakness of the Americans, that Great Britain will come off triumphant in the contest, but the victory will be truly deplorable. Should it be doubtful for any time, that alone will make you repent your recourse to violence; but should you succeed at last, all confidence and cordiality being interrupted, you neither can, nor will, treat the Americans for the future as subjects, but will reduce them to the most implicit obedience. But remember, that though the Americans are naturally good subjects, they will ever be bad slaves, the difficulty will be great to keep them in the irksome state of servility, and the expence and watchfulness necessary for it will entirely exhaust you: for though the English, as it is said, will, when they cease to be freemen, be the most abject slaves the Americans, on the contrary, should they now be reduced to that miserable state, will ever retain a spirit for, and longing after liberty; and the difference between the temper of the two people in this deplorable event, will be owing to the different causes which

which produce it. Whenever the people of this island cease to be free, it will be when they are so thoroughly corrupted, as basely to betray their own rights, and become willing slaves; but the Americans now have the independance which a bountiful nature gives, and the strongest sense of liberty; and therefore force alone can deprive them of their enjoyment of it. I said it was probable that Great Britain would at last be triumphant, but it is possible that her most vigorous efforts may be baffled; notwithstanding the greatness of her power, and the weakness of America.

Every war is doubtful, power has frequently ruined itself by confidence, and weakness grown strong by despair. History affords many examples to prove the truth of this observation: the establishment of the United Provinces, about two hundred years ago, is an incontestable one; and is well worthy of our particular attention at this time; for it will enable us to observe the consequences of weak or violent councils, of corrupt or ill conduct, of faction or obstinacy, which weakens and dissolves the firmest government; and if our condition is so critical, as to confound even the best heads and best hearts in the kingdom, in determining what ought to be done, to extricate us from our difficulties; the rise and progress of the disturbances in the Low Coun-

Countries will instruct us at least in the negative kind of knowledge, of what ought not to be done. Some people may, perhaps, imagine, that the wisdom, thus attained, is at best very uncertain; for tho' all things are possible, and what has been, may be; yet hardly any one thinks he is liable to the same misery another has fallen into, because a change in time, fortune, condition, and a variety of other circumstances, make him an exception to the former rule. But the truth is, that so long as human nature continues what it is, the same causes will generally produce the same effects; at least it will be consistent with human prudence, to conduct ourselves as if they would, when the circumstances of the times are such, as to leave us no other rule to go by.

The Spanish monarchy was, about the year 1559, when the peace of Cambray was made, the most respected power in Europe, Spain, the Milanese, the Two Sicilies, the Low Countries, and the new discovered World, were the formidable members of it; the ambition of France was checked, it held Italy in awe, and England was subservient to its purposes; considerable acquisitions were made by the peace, besides the particular objects of the war.

Thus circumstanced, Spain had nothing to do but, by cultivating the arts of peace, establish its extensive empire on the firmest
foun-

foundation. But, unfortunately, the peace of Cambray, which restored quiet to all the declared enemies of Spain, produced animosities, civil dissensions, and open ruptures amongst her own subjects, to the misery of individuals, and dismemberment of the empire.

The means by which this signal ruin was brought about, may be worth investigating. The first blow given to it, came from a quarter the least expected, from its weakness and former loyalty of conduct towards Spain. But there is nothing so unlikely, which particular accidents may not produce; and the greatest empires have fallen, by means apparently the most contemptible.

The Low Countries, which were divided with many states, with distinct governments, were over-run by the northern nations, who ravaged the greatest part of Europe, particularly the Saxons, who, fierce in arms, established and maintained freedom wheresoever they went; for, fighting without pay, and not for the ambition of another, they conquered for themselves, and were therefore attentive to secure the public liberty against the artifice or violence of those who might claim a superiority over them. As they were bred to arms, they never forgot the use of them, and kept themselves free thereby from open insults; and, lest cunning and time should injure
their

their rights, they claimed and exercised the greatest liberties; and, amongst the rest, the right of determining disputes about the succession of their princes, when doubtful or controverted; and deciding those between the several towns, of raising a militia for defence of their countries, in a war amongst their neighbours; of advising, in time of danger abroad, or discontents at home; and upon any new imposition that was necessary upon the people: the use of the free assemblies was another of those liberties, whereof the inhabitants of those provinces were fond and tenacious. These rights seem to be essential to contribute them freemen, but there were other concessions and graces from their princes who ruled over them, which, being once granted, they had a full and complete title to.

Their wars, which were generally short, were with princes and competitors of their own size and strength, unless indeed they fell into the quarrels of England and France, and then they were engaged on the skirts only, the gross of it being waged between the two kings, and their smaller states were made use of for the commodiousness of a diversion, rather than any great weight they might have in the main of the affair.

The mighty growth of the commerce of this extensive country (attributed by Commines to the goodness of the princes, and the

the ease and safety of the people) enabled Spain, into whose hands it came, to be a match for France. Philip of Burgundy especially was a wise and good prince, loved by his subjects, and esteemed by his enemies; and taking his measures so well upon the decline of the English greatness abroad, by their dissensions at home, ended his quarrels in France, by a safe and honourable peace; "so that he took," Sir William Temple says, "no pretence from his greatness, or his wars, to change any thing in the form of his government;" but Charles, the Hardy, asked frequent and heavy contributions, which, gained at first by the credit of his father's government, and his own great designs, but at length rendered his people discontented, and himself disesteemed and unfortunate. In the time of Maximilian, several bodies of German troops were brought down into Flanders for their defence against France; and in the time of Charles V. a much greater number of Spaniards and Italians were introduced on the same account; but these demands of money, and these grievances by the introduction of soldiers, gave occasion to no disturbances at first, for Charles was of a generous and gentle nature, and dying, left to Philip the Second the Seventeen Provinces, in a condition as peaceable and loyal as either prince or subject could desire; but

D

being

being soon treated with various marks of contempt and distrust, and the foreign soldiers and those exactions which the war had made necessary, and therefore readily submitted to, being continued, the inhabitants of the Provinces withdrew that affection and attachment they had hitherto shewed upon all occasions.

The government of the Low Countries being beneath the immediate consideration of the Austrian greatness, the whole was devolved on the Dutchess of Parma, assisted by the *Cardinal de Granville*, who being the adviser of the continuation of the foreign troops and exactions of money for their support, was looked upon as the chief promoter or instrument of their oppressions, and not of their defence, when a general peace had left them no enemies to fear.

The people complained with a general consent and passion, and the States enforced their complaints by concurring with them; but all uneasiness and remonstrances being disregarded, the provinces first contriving various delays, absolutely refused at last to raise any more money for the pay of the Spanish troops; and such was the universal despair, that, neglecting their dikes, they declared they had rather be drowned by the sea, than held in subjection by the foreign forces.

This

to This spirit of the people, alarming the court, the troops were recalled, and thereby the public tranquillity restored.

vi But it was interrupted in the year 1565, by the resolution that was taken to annul all the laws, impose arbitrary taxes, create new bishops, with their spiritual courts, and judges, at the will of the king, or pope, and above all to establish the Inquisition, that extraordinary court of judicature, contrary to the ancient laws and customs of the country, and which they could not introduce into Milan or Naples; and, to sum up the whole, all these violations of public and private liberty, of temporal and spiritual rights, were to be asserted and maintained by the hangman and foreign troops; means which, Sir William Temple says, “are commonly made use of to suppress civil commotions, but were, in this instance, the occasion of their breaking out in Flanders.”

For the principal lords meeting together at Brussels, represented their rights and infringements thereof to the Governess.—

“This congress,” says Voltaire, “was called a conspiracy at Madrid, but was considered in the Low Countries as a most lawful act; and it is certain the confederates were not rebels.”—Their petitions being listened to, and the rigour of the edicts about religion and the In-

quisition being remitted, all noise of discontent and tumult was appeased, and the governess was both obeyed and honoured.

But it being soon after discovered, that the blackest designs were formed by the court of Madrid, who disavowed the former moderation and justice, the provinces were struck with astonishment; but that soon gave way to rage, which began to appear in their looks, their speech, their bold meetings and libels, and was increased by the miserable spectacle of innumerable executions. And what added insult to oppression was, Philips insisted that he was absolved from those oaths, whereby he confirmed their liberties, by the supreme power of the Pope. "This reason (says Voltaire) might possibly have great weight with Roman Catholics, but naturally enraged the Protestants, and confirmed them in their disaffection."

In the beginning of the year 1566, there appeared in the citizens an open contempt of authority; executions were hindered, officers abused, and prisons forced. This was followed by a confederacy of the Lords never to suffer the inquisition in the Low Countries, as contrary to all laws, sacred and profane, and exceeding the cruelty of former tyranny. Upon which, all resolution of force or rigour growing unsafe for government, the Duchess of Parma was obliged

obliged to use gentle methods, and promise, with the concurrence of the court of Spain, a full redress of grievances; but whether a redress was never intended, or from the dilatoriness of Spanish councils was deferred too long, it certainly came too late; the flame broke out, and the revolt appeared universal.

But the richer and more prudent men of the provinces, particularly the Prince of Orange, and the Counts Egmont and Horne, feeling the ill effects, and abhorring the rage of popular tumults, as the worst mischief that can befall any state, exerted their utmost vigour, loyalty, and that influence which the public affection gave them, to appease the general discontent; by which means, and the prudent and moderate management of the governors, all the provinces were restored to their former peace, obedience, and appearance at least of loyalty.

But scarce was this happy event brought about, when the arrival of the Duke of Alva, with ten thousand of the best Spanish and Italian soldiers, under the command of the choicest officers which the late war had bred up, struck all the Low Countries with astonishment, submission, and despair.

The trading part of the town and country retired out of the provinces in such vast numbers, that in a few days one hundred thousand people, taking their money and effects

effects, abandoned their country. “ So
 “ great antipathy ever appears (says Sir
 “ William Temple) between merchants
 “ and soldiers, the first pretending to be
 “ safe under laws, which the other makes
 “ subject to his sword and his will.”

The Dutchess of Parma, who was always for the mildest measures, thought the public tranquillity ought not to be disturbed by new oppressions, nor the royal authority lessened by being made a party to a war against its subjects, constantly dissuaded against the present conduct; but her advice being disregarded, she retired from the government of the Low Countries, not chusing to be answerable for measures so pernicious to the public interest.

The provinces had demanded, some time before, the recall of the Cardinal de Granville, who returning to Madrid, hated by, and hating the country he came from, influenced the court in all its measures, and the Duke of Alva, invested with unusual powers, exercised them accordingly with the utmost rigour in violation of the laws of the country and humanity, and to the dishonour of the King, and the ruin of the Austrian greatness.

The misery which these councils introduced are so shocking, that we cannot read of them, even at this day, without horror and detestation.

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“ The towns (says Sir William Temple)
 “ stomached the breach of their charters;
 “ the people of their liberties; the Knights
 “ of the Golden Fleece the charter of their
 “ order; all complain of the new and odi-
 “ ous courts of judicature; of the disuse of
 “ the states, and introduction of the forces;
 “ but all in vain, the King was constant to
 “ what he had determined, the Duke of
 “ Alva was in his nature cruel and exora-
 “ ble; the new army was fierce, brave, and
 “ desirous of nothing more than a rebellion
 “ in that country; the people were in a
 “ rage, but awed and unheaded; all was
 “ seizure and process, confiscation and pu-
 “ nishment, blood and horror, insolence
 “ and dejection, punishments executed, and
 “ meditated revenge.”

The council of Blood, which Alva had
 established, soon lopt off the lesser branches,
 but the greater took longer time in hewing
 down; but at length the Counts Egmont
 and Horne, notwithstanding their merits to
 the crown of Spain, and earnest solicitations
 from all quarters in their favour, were sa-
 crificed to the spirit of pride, cruelty, and
 distrust.—Their blood was the first cement
 of the republic of the united provinces.

William Prince of Orange, an ancestor of
 our great deliverer, finding his life sought
 after, fled into Germany, being unable,
 without one foot of land, and without men

or

of money, to oppose his country's enemy—but persecution supplied him with every thing, it collected friends, it raised contributions, it gave resentment, and that inveterate courage called despair, but being weak he was hardly ever successful against his potent enemies, who insulted over the liberties of his country in the grossest manner, and moved with no remorse, and terrified by no threats from a broken, divided, and unarmed people, and thinking forms and measures were not now necessary to be observed, demanded a general tax of the hundredth part of each man's property to be raised immediately, and for the time to come the twentieth of all immoveables, and the tenth of what was sold.—“ It was wonderful (says “ Voltaire) that the master of Mexico and “ Peru should be thus impoverished, as to “ stand in need of such taxes.”—This rapacity and injustice compleats the general dissatisfaction, the popular fury is almost incredible, the sluices are opened regardless of themselves, so that the enemy is overwhelmed, the women list in companies, repair breeches, give alarms, and beat up quarters; the Duke of Alva in return slaughters innocent persons of both sexes without remorse, and both sides give into the most horrid practices and returns of ignominy, cruelty, and scorn—the unavoidable consequences of civil dissention—but this is
a scene

a scene too dreadful to be long dwelt on. In short, therefore, the Austrian greatness, after having tried every method which force, policy, and wickedness could suggest to reduce its revolted subjects, was obliged at last to treat with, and acknowledge them, in the most humiliating manner, as a free and independent people.

It is not to be imagined however, that natural courage, or even despair, could have brought the affairs of the united provinces to this fortunate conclusion, if they had not been sometimes underhand and at other times openly assisted and supported by the other powers of Europe, who envied or dreaded the greatness, which Spain had attained to by the peace of Cambray.

Many observations might be made on this detail of the rise and progress of the disturbances in the Low Countries; one is most obvious, which is: That the imposing taxes and introducing troops into the country, when a general peace made both unnecessary, were the first grounds of discontent, which was fermented by establishing bishopricks and judicatures, unknown to the antient laws and customs, and questioning at the same time those rights and charters which the people claimed from their former princes; but that the general uneasiness, occasioned by this conduct, might have been easily appeased, if the mistakes in government had

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been

been corrected in time: The dutchess of Parma, wise and moderate in her disposition, advised it; but the cardinal de Granville, thinking his reputation for integrity, sagacity and knowledge, depended on the prosecution of those measures he had formerly advised, strenuously opposed every mitigation, and insisted on the vigorous execution of the edicts.—This violence the times would not bear—and therefore the loss of the United Provinces, with their extensive and beneficial trade, must be imputed to this *one man*.

A serious consideration of this remarkable event in history ought to alarm those, who now seem eagerly bent to drive things to extremities. But perhaps, however passionate they may appear in speech, they are in their own natures timorous, and would be fearful of answering for the effects and consequences of those violent councils which they give to others. Should this be the case, their conduct must be imputed to the rage and indignation of party and disappointed ambition. It is in vain then we trouble ourselves with such men, but let us rather apply to those whose principles are founded on liberty, and are guided by moderation; and those who have inclination as well as abilities to extricate this kingdom and its dominions from their present confusion and miserable condition.

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The discontent and uneasiness, so universal amongst his Majesty's subjects in North-America, cannot but have the worst effects on the interests of both countries; it would therefore be the honest part of all the subjects, on both sides of the Atlantic, to endeavour to appease the present ferment: For should it be increased, or even be kept up to the pitch it now is at, the consequences will be most ruinous. If it arises from the spirit of absolute independance, that spirit ought to be checked; but if from an injudicious conduct and hard and undeserved treatment from this country, that conduct and treatment ought to be changed.

The loyalty of the American colonies, has, till very lately, been unimpeached; they have diligently laboured for you in peace, and zealously co-operated with you in war; descended from this country, they have the strongest attachment to it; and closely connected with it, all their produce centers here; they glory in the same king, have the same religion, and claim a right to the same liberties. These are strong motives of affection to you, but should these ties be loosened, the difficulty of succeeding in the attempt of independency is so great, that nothing but the most unhappy times can force them to venture on it; but, I must confess, the best security this country can have of the obedience of the Americans, is their con-

vision of your good intentions towards them; for despair will give supernatural strength.

Weak as they really are, should ever their fidelity be shaken, they will soon become strong by the malicious assistance of your rival neighbours, who will offer their service with eagerness to your revolting subjects, and then contending with the powers of Europe, and with enemies still more hostile, because, actuated by despair, the event will be doubtful.

However, the imagination of those people, who think that America will one day or other be independant of Great-Britain, is certainly not groundless.

But this is no sufficient reason for fear, for this independance can hardly be brought about until some general calamity falls on Europe, or the protection which the colonies now claim from their several mother countries, is denied, or unable to be given from the particular distresses at home, power is subject to change; it is the natural course of things. The grandeur of the Roman empire is annihilated, and this island, formerly a province to it, and looked upon as almost out of the world, has a greater dominion than Rome ever prided itself in, and is now the centre of riches and authority. May it ever continue so! Nothing but its own bad policy can prevent it, the fear

of evils may produce them, as the dread of death frequently puts a period to life.

There are indeed a set of men, who from dullness being totally ignorant of the colonies, or from pride, ashamed to have a knowledge of them, talk of what *we*, for such is their language, have done for them; what money *we* have spent; what blood *we* have lavished; and what trouble *we* have had in establishing and protecting them to this day; and after a thousand such self applauses, declaiming against the baseness, ingratitude and rebellion of an obstinate, senseless and abandoned set of convicts, declare, if they had the government, they would—they know not what they would—These therefore so presuming and uninformed, it must be confessed, the Americans acknowledging only the authority of the parliament of Great-Britain, disclaim even now all subordination.

The duties of a mother country and its colonies are reciprocal; the one expects encouragement and protection, and the other claims and secures to itself every advantage that an extensive commerce can produce. I will not make any comparison between Great-Britain and her American settlements, or say which of them has been most attentive to the discharge of their several duties. It would irritate perhaps one side or other; and this is not my inclination or design, but
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the Americans ought not to be accused of ingratitude, the exports and imports of Great-Britain will free them from that charge. If it is expected they should for the future protect themselves, it will, I am afraid, give them at least that independance of mind, which a man, who hopes for no favours, generally has. It is possible indeed they may feel your coolness towards them in a worse light; for recollecting the immense sums of money you have spent in the defence of the Germans, Dutch, and Portugese, and indeed of almost all the other nations of Europe they think they have an equal right to your protection.

You have entered, say they, into the wars of these aliens to support a fanciful balance of power, and that too with a profusion of blood and money which has astonished Europe; but repine at, and grudge the expence of defending your brethren, and your essential commercial interests in America. It is perhaps difficult for an Englishman to account for this conduct upon the common principles which actuate the world; but the Americans imagine they see the grounds of it.

The ministry of Great Britain, they say, being taken up with the more arduous affairs of Germany, and the struggles of parties at home, neglected America; the value of which was unknown until France gave
you

you an idea of it, by endeavouring to take it from you. This roused the British nation, who, immediately seeing its importance, thought *ea neglecta civitas stare non possit*. The war, thus undertaken for the defence of your essential interests, was prosecuted with vigor, and its consequential success gave you a right to demand much more than the original objects of it. The Americans, who had exerted themselves to the utmost, as in a public cause they were bound to, flattered themselves that the peace would have enabled them to recover their strength, by establishing and extending their trade, which had been almost ruined during the course of the war; but unhappily for them, scarce had hostilities ceased against France and Spain, the declared enemies of Great Britain, but the cry was—*INTUS EST HOSTIS*.

We at once became seized with fear and jealousy of our fellow subjects in America; for, viewing a map made on a large scale, we found them seated on an extensive continent, which, we heard, nature had done much for, and which we dreaded, lest time should establish into an empire of dangerous consequence: we said we had ruined ourselves for the sake of America, which would one day or other be the scourge of Europe; and that the blood we had shed would nourish a viper, which would sting us to death. Thus, jealous of our fellow subjects, we repented
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of what we had done; and, fearful of the strength which security from future encroachments would naturally increase, it was determined, say the Americans; to keep the colonies in that kind of dependance which is occasioned by weakness and poverty, and not in that subordination and obedience which arises from gratitude and the voluntary duties of children to parents.

It is this system of policy, founded on our jealousy and distrust, that is the ground of the present discontent in America; for nothing can be more natural, than that jealousy and distrust on one side, should produce on the other the same bad and illiberal qualities, to the interruption of the most cordial friendship, and breach of the strongest duties.

It is to this policy they impute the ruin of the Spanish trade, by the royal navy of Great Britain acting in the spirit of the Guarda Costas of Spain. It is true indeed the impropriety of this conduct was seen when we found it must ultimately affect ourselves; and, therefore, though the act is still in force, the execution of it is suspended; but the condition of the Americans is bad indeed, for the blow aimed at them, took place! and the dagger remaining rankles in the wound.

The rumour of quartering soldiers on private houses, on the stale plea of necessity, which

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which may be urged, and generally is so, to justify the worst actions; the erecting of civil law courts; the establishing of an army, when all danger of an enemy is removed; the reasons which are generally urged for laying taxes on the colonies, namely, that the war was undertaken on their account, that Great Britain is exhausted, and that America is enriched by it, and therefore ought to pay its proportionate share, have alarmed them greatly, and given them fears which make them jealous of every step you take. They insist, if ever Great Britain had a war peculiarly her own, the last was; her essential and not fanciful interests being deeply concerned in it; and that it was as little undertaken for America, as that you sent forces to Portugal for the sake of that kingdom: they deny that Great Britain was exhausted by it, notwithstanding her pretended, or even real want of money: the pretended want was raised by the clamour of party and stock-jobbers, and the real one was owing, not to a decay, but increase of trade, which your unparalleled success occasioned, demanded greater capitals than usual. They declare they exerted themselves to the utmost they were able; that their public and private debts, and the destruction of their inhabitants, shew it; and that as they are obliged to consume the manufactures of Great Britain, they actually, though not named by

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the parliament, pay every tax which is laid on Great Britain.

I mention these grounds of their present uneasiness without any endeavour to shew their reasonableness; but I must beg leave to insist, though it should be allowed, the war was undertaken merely for the sake of the Americans, and that they had not contributed one farthing to its expence, yet that laying taxes on them is contrary to sound policy, and the object Great Britain had in view in establishing colonies.

The first conquests and acquisitions made by the Romans, were made, like those of the Tartars, in a spirit of union, who adopting or blending themselves with those whom they had lately subdued, fixt their foundation on the firm basis of one inseparable interest.

But as soon as the Romans found their empire sufficiently strengthened to enable them to act offensively, to the disturbance of the whole world, they poured their armies into all quarters, and conquered it, for the purposes of avarice and ambition. The objects they had in their view were, the glory of the Roman name, and the plunder of the rest of mankind, for the sole benefit of the Roman people.

The colonies established by the modern European nations, in uncultivated and uncivilized countries, have had two apparent views;

views; the establishment of the Christian religion, and increase of dominion. These objects are generally set forth in all their commissions and charters, and the first of them was impiously asserted by the Spaniards, to sanctify the most dreadful inhumanity; the rest of the European nations have had more religion, than to make use of the sword, to inculcate the doctrine of the true God. England in particular hath acted in this respect with real wisdom and piety.

The extention of dominion, the other object which the European nations had in view in establishing colonies, seems, considering the times when they were undertaken, to imply the extention of arbitrary power; for the kings of Europe then possessed, or claimed, the most absolute authority; all acquisitions therefore, however made, belonged peculiarly to them; colonies in particular, being undertaken by commissions from them, seem to have been originally established for their use and benefit; and so perhaps, considering the spirit of our laws at that time, they really would have been, even in this country, if the nature of our government had not changed, or our sovereigns had not divested themselves of those powers, which the common laws of the land gave them over new acquisitions.

But as Englishmen could not be allured to leave their native homes, to labour in uncultivated countries, without a full security for the enjoyment of those liberties, which they had a right to from birth, the fullest assurances and most ample concessions were made to the adventurers, for their encouragement in so arduous an undertaking.

By these charters and grants the settlers of the New World were as free, when they crossed the Atlantic, as they had been in this island; but as new-discovered countries and acquisitions were the immediate property of the crown, and consequently subject to its immediate government, the liberties which the inhabitants of them enjoyed, it is pretended, must be considered as mere concessions from the crown, and not as they are in this country, independant thereof, and coeval with prerogative itself; but should this be the case, the liberties of the colonies cannot be infringed, for the crown has parted with all means of oppression, by granting them every right for the support of civil liberty, which this country enjoys; and as these grants and supposed concessions have been made voluntarily, for the encouragement of a brave and laborious people, they must have at least as much force and validity, as those which have been extorted and demanded in the field of battle.

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The extension of dominion therefore, which is one of the expressed objects of our establishing colonies, cannot mean an uncontrouled power over slaves, but a dominion founded on freedom ; and not founded for the purposes of ambition and vain glory of a monarch, or a partial regard to this or that country, but for the establishment and extention of the commerce of the British dominions.

Here then is an essential difference, between the colonies established by the English, and the countries which were conquered by the Romans ; the first were composed of freemen, leaving their native homes to extend its commerce for the public good ; the latter went over nations for the sake of plunder and vain glory : the returns which one country claimed from those, which were subject to it, were tribute and servility ; but that which the other hath generally expected, are a liberal obedience, filial affection, and those advantages which the balance of trade gives, for the benefit of *both* countries ; I say for the benefit of *both* countries, because Great Britain being enriched and strengthened by it, is better enabled to give that protection which the colonies have a right to expect from her.

The Romans acted consistently when they treated the conquered provinces with rapacity

city and insolence for not being composed of Romans, but of aliens and enemies to the Roman name; they were subject to the will of the conquerors; Rome was itself alone; and therefore, disregarding the common rights of mankind, she endeavoured to subdue and plunder the rest of the world for her sole aggrandizement.

But the conduct of Great Britain ought to proceed on different principles; for as its colonies are composed of Englishmen and freemen, they ought to be treated as such—the interests of the mother countries, and its colonies, are inseparable—no partiality for the benefit of one to the prejudice of the other ought to be admitted; and their mutual advantage can *only* be obtained by the sources of trade, enriching the several channels through which it flows.

It is then by trade *alone* that Great Britain, acting in a spirit of *true policy*, will endeavour to draw the wealth and produce of America to herself; all other methods will destroy the object for which the colonies were established. If the Americans indeed, possessed of valuable mines of gold and silver, or a lucrative commerce, still retained more than the ballance of trade drew from them, Great Britain might, perhaps, consistently with self-interest, take the overplus. But the fact is otherwise, all their gains and produce now centers here in the way

way of trade, and therefore the system of taxing them is diametrically opposite to the real benefit of the nation in general, though it may serve the purpose of a temporary expedient.—The Treasury may swell a little, but commerce will shrink to nothing.

But it is better for the nation, that the riches of the Americans (if they have any) should pass through the accompting-houses of the merchants of London, than be paid in at his Majesty's Exchequer at Whitehall. A minister will propagate a different doctrine; he may, perhaps, wish to make the colonies a convenient property, to supply his want of popularity or knowledge in the resources of the kingdom; and reasons may be given by him for this kind of policy, sufficient to impose on the generality of the nation; but it is probable the Americans will never be satisfied with the exertion of this kind of power, and submitting to it with reluctance, will reject it whenever they are able. And, indeed, however ready we may be to ease ourselves by taxing them, and reaping apparent emolument at their expence, we shall soon repent of our partiality; for however weak and wicked a future minister may be if this system is adopted and pursued, the spirit of liberty will exert itself in vain against him; for pretending hereby to secure the dependency of America, he will himself become independent of the
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Commons of Great Britain, by the ease and facility with which he will raise the necessary supplies.

Cromwell, though an arbitrary ruler, and Charles the II^d, a necessitous Prince, pursued, in this respect, the true interests of Great Britain; for notwithstanding the extravagance of the one, and despotism of the other, they plainly saw, that real power, and substantial and permanent wealth, could only be attained through the channels of commerce, and that there would be a sufficient fund established for dissipation and corruption, and the highest power exercised, by rendering the trade of the colonies subservient to Great Britain; and therefore Cromwell had the sagacity to plan, and Charles the good sense to adopt the famous *act of navigation*, which the British colonies have to this time dutifully and implicitly obeyed: for though it has reduced them to a kind of political slavery, yet being founded on the soundest policy, they have submitted to it with cheerfulness and affection to this country; and so long as they do so, you need no other evidence of your sovereignty over them; for let any one consider the nature of it, and he will find it the strongest mark and badge of subserviency and dependence.

Let then the mutual, which is the real interest of Great Britain and her colonies, be promoted, by constantly pursuing the
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the true object for which the latter were established, and let us not cut down the tree to get at the fruit. *Let us stroke and not stab the cow, for her milk, and not her blood, can give us real nourishment and strength*; and for this purpose, let the *spirit* of the *act of navigation* (for sound policy has long since varied from *the letter*) be strictly adhered to; and then, however flourishing the commerce of America may become, either by its own efforts, or by the judicious encouragements and bounties given by this country, the whole advantage thereof must ultimately center here, and that without discontent and disturbances, to the honour and satisfaction of his Majesty, and promotion of the public good.

F I N I S.